LEGISLATIVE BUSINESS.

THE TRAVANCORE DEBET RELIEF BILL.

SAHIB BAHADUR P. S. MUHAMED (*Quilon cum Kottarakara*): സർ, ഭേഗതിയെപ്പററി വാദപ്രതിവാദം തുടങ്ങുന്നതിനുമുമ്പു് ഒരു പ്രധാന സംഗതി എനിക്കു ഗവണ്മെൻറിന്റെ ദൃഷ്ടിയിൽ കൊണ്ടുവരേണ്ടതായിട്ടുണ്ടു്. വാദപ്രതിവാദത്തിനു വിഷയമായ ഭേഗതിയും അതുപോലെ പ്രധാനമുള്ള മറു ചില ഭേഗ്തികളും പാസ്സാവുകയാണെങ്കിൽ ബില്ലു പാസ്കുന്ന വിഷയത്തിൽ ഗവണ്മെൻറിൽനിന്നും തടസ്സം ഉണ്ടാക്കുമെന്നുള്ള ഒരു സംശയം മെമ്പറന്മാരുടെ ഇടയിൽ ഉണ്ടായിട്ടുണ്ടു്. ബില്ലിന്റെ പ്രാധാന്യത്തെ പരിഗണിക്കുമ്പോൾ ഇതിനെ ഒരിക്കലും നീട്ടിക്കൊണ്ടു പോകാൻ പാടുള്ളതല്ല. ബില്ലിന്റെ ഒരു അവസാനം കാണുവാൻ ജനസഞ്ചയം കാത്തിരിക്കുകയാണു്. ഞാൻ മുമ്പു് പ്രസ്താവിച്ച വിധമുള്ള സംശയത്തിനു ഒരു പരിഹാരമുണ്ടാകാതെ ഈ ഭേഗതിയുടെ ആലോചന തുടരുന്നതു് വിവേകപൂർവ്വമായിട്ടുള്ളതല്ലാ എന്നു എനിക്കു തോന്നുന്നു. മുൻ പ്രസ്താവിച്ച പ്രകാരമുള്ള സംശയത്തിനു വല്ല അടിസ്ഥാനവും ഉണ്ടെങ്കിൽ അതിനെ സംബന്ധിച്ച ഗവണ്മെൻറിന്റെ നില അദ്ധ്യക്ഷസ്ഥാനത്തുനിന്നും വിശദീകരിക്കുന്നപക്ഷം എന്റെ കക്ഷിയിൽപെട്ട ബഹുമാനപ്പെട്ട മെമ്പറന്മാരുമായി ആലോചിച്ചു ഈ ഭേഗതിയെ സംബന്ധിച്ചും, മറു ചില ഭേഗതികളെ സംബന്ധിച്ചും, ഉള്ള ഞങ്ങളുടെ നില വ്യത്യാസപ്പെടുത്തേണ്ടിയിരിക്കുന്നതിനാൽ ഇതിനെ സംബന്ധിച്ച ദിവാൻ പ്രസിഡണ്ടിന്റെ ഒരു വിശദീകരണത്തെ ഞാൻ പ്രതീക്ഷിക്കുന്നു.

PRESIDENT: Of course I have understood the gist of the remarks made by the honourable member; but I was not able to follow the inner meaning. If I understood the honourable member correctly it seems that he is apprehending some kind of ship wreck to the Bill. All that I can say is that Government will give the most careful consideration to the Bill and the opinions of the honourable members. What Government will do ultimately in certain contingencies is entirely a hypothetical matter. It is difficult to see in the course of the discussion where the question of Government comes in.

MR. KAINIKKARA M. PADMANABHA PILLAI (*Changanacherry cum Peermade*): Sir the position is this. There are a good number of amendments tabled. There are some amendments which are fundamental. It appears that the present amendment is one of them. Before we decide what we might do with regard to this amendment we have to decide what we have to do with similar other amendments. If the result of carrying any of these amendments will be the withdrawal or

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[Mr. Kainikkara M. Padmanabha Pillai]

temporary suspension of the Bill I think we have to consider the matter and come to a decision. A statement was read yesterday by the Legal Remembrancer which has again set us thinking. Now there are in this House representatives of debtors as well as creditors.

PRESIDENT: I just had an explanation from the Legal Remembrancer who says that he only uttered a word of warning that the Bill will have to be redrafted and brought forward later if amendments of such fundamental natures are brought forward.

MR. KAINIKKARA M. PADMANABHA PILLAI: Sir, that is what I said. The Legal Remembrancer did not offer any threat but he hinted in the most decent language —

PRESIDENT: Perhaps a Parliamentary threat.

MR. KAINIKKARA M. PADMANABHA PILLAI: Yes Sir. The consequence was placed before us. Government have adopted certain lines in this enactment and if by any change we intend to make those principles are to be altered Government will have to reconsider the whole question, perhaps necessarily re-draft the whole Bill. This is what the Legal Remembrancer said. We had similar experiences on previous occasions the proceedings of which are not to be disclosed here. He said that if any substantial amendment is to be made then we have to do it at our own risk. We do not wish to multiply similar instances here after. As I made it very clear on a previous occasion, if Government think that this is the fartherest extent to which they can go considering all conditions, and if any substantial amendment will force them to withdraw the bill and reconsider the whole matter, then our whole outlook will have to be changed. It is not a question of this amendment or that but the question of this Bill as a whole or no Bill at all for the present. We have to weigh the considerations very carefully and we have to consult more especially the members who represent the debtor side in this House and come to a conclusion. Therefore, as it stands, practically we believe that this question is not whether this amendment should be discussed and carried, but whether we should go on with further amendments. The exact position of the Government in this matter must be indicated.

PRESIDENT: I am very glad that Messrs. Muhamed and Kainikkara Padmanabha Pillai have put this point so lucidly and with such sense of perspective.

So far as I can see—at this moment I am speaking for Government—there is no reason for apprenhension on the part of any member of the Legislature that any topic on which they feel strongly cannot be put forward and discussed with thoroughness and with all the arguments available to the honourable members who advocate particular views. It will be recognised by this honourable House that, so far as Government are concerned, they have not taken any cast-iron decisions or followed any obstinate course. There was a report published by a very influential committee to which the most anxious attention was paid. At that time, as would have been apparent to the

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members of this honourable House, I stated from the Chair that, so far as Government were concerned, they were particularly anxious to help those who may be compendiously described as small debtors, namely, debtors whose liabilities did not exceed an amount, let us say, Rs. 5000 or 10,000. I invited this honourable House to consider whether, taking all the circumstances of the country into consideration, it was not wise for the House to concentrate its attention upon these small debtors. I found that opinion was very strong and strongly expressed that such a narrowing or limitation of the objectives of the Bill was not palatable to, and would, in fact, be misunderstood by, the honourable members of this House. In any case, that was the impression derived by Government and, therefore, without standing upon prestige Government made up their mind to proceed on the basis of no pecuniary limitations with regard to the debts. But, side by side with that, the intention of Government has been and will be that any Bill which seeks to provide relief for debtors will provide for such reliefs only in case there was a solicitude and an anxiety on the part of the debtor to discharge his obligations. To put it in another way, it is not the intention of the Government, nor will it be their policy to satisfy academic cravings for reduction of debts so as to enable a debtor to say: "Yesterday I had to pay a debt of Rs. 100. Today I have to pay Rs. 60, but just as I did not intend to repay the debt of Rs. 100 yesterday, I do not intend to repay this debt of Rs. 60". If, therefore the debtor does not agree to make some kind of arrangement or enter into statutory undertaking implementing an honest effort for wiping off his debt, then Government will not be anxious to help the debtor. That, I take it, was the main idea with which this honourable House was invited to sit in committee and thrash out a new legislative project which has now come before the House.

The Government are wedded only to two or three principles and are perfectly willing to consider any suggestion of the House on its merits and, as far as possible, to go with the House, in all other matters. What are those principles on which Government are definite and clear? The Government are definite and clear that, as at present advised, they do not desire, unless the feeling in this House is very strong and practically unanimous, again to go back to the question of the limitation of the debts. Government are also clear that the provisions relating to the repayment by the debtor of the amount scaled down, are essential that may be said to be another fundamental point.

The third point which does not arise on the Bill, but which is a matter that I may make clear to the honourable members of the House is that, so far as Government resources are concerned,—and something would be heard about it tomorrow if they decide to render help to the debtors at all for the purpose of tiding over the present economic situation,—they can only give help to those debtors whose liabilities do not exceed something like Rs. 5,000 or Rs. 6,000. It is impossible to conceive of the Government coming to the help of the big debtors; that is not strictly arising out of this point, but it is a matter which the honourable House will have to bear in mind.

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[President]

I have been receiving deputations from the one side and the other—deputations of Bankers rich men, and the debtors. To them my reply has been that this honourable House must be approached and that there is no point in appealing to Government at this stage as a kind of deus ex machinae. The opinions of this House will be respected by the Government and I expressed the hope to all the deputations, a hope which I think is reasonable and well-founded, that in coming to a final conclusion on the project of this Bill, this honourable House will realise that the credit structure of the country is a very important factor; that at the present moment and in our programme, with the crashes that are taking place in respect of world economy and on account of the world situation, it is a very difficult thing indeed for credit to be preserved; that in any case nothing should be done which would endanger credit beyond the extent necessary to give essential relief to the debtors who have suffered and who have got an undoubtedly good case to be put before the country and the legislatures. These are the only fundamentals to which the Goverement are wedded and so long as those fundamentals are kept in view, neither Mr. Muhamed, nor the Leader of the Opposition, nor anybody else need think that there will be any interference or any attempt on the part of the Government to dragoon the House to a decision which will not commend itself to their considered view.

MR. KAINIKKARA M. PADMANABHA PILLAI: Sir, in the light of your statement, I would request your permission to allow the members of my party to withdraw themselves to the lobby for five minutes so that.

PRESIDENT: I go further. You may continue your discussions till 12 o'clock here itself.

The House adjourned at 11·25 A.M. and reassembled at 12 Noon.

MR. KAINIKKARA M. PADMANABHA PILLAI: Sir, we have considered the position very carefully. Our opinion was that an equitable way of giving relief could be only by limiting the reduction to the interest. Therefore, we thought that the correct method to be adopted would be to separate the principal and the interest, necessitating locally the reopening of documents and a retrospective reduction of interests. Now, the statement made by the Dewan practically precludes the possibility of any of those steps. It is true, Sir, that during the early stages of the discussion the majority on our side was against placing a limit on the debt. Even then we never forgot the difference between debt and debt but we made it clear that we would come to the difference between debtor and debtor and debt and debt when we came to the question of relief. Now as the Bill is placed before us there is no difference between debtor and debtor and debt and debt in the matter of relief. So we thought that we may make a difference in the matter of debts. That is why amendments have come from several members of our party, suggesting that an upper limit may be placed for debts.

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The second reason that prompted us to make that amendment was this. The Bill as was drafted by the Committee made provisions for an automatic reduction of the debt, independent of the capacity of the man to pay the amount. Now, relief is always interdependent or absolutely dependent upon the availability of funds. The only institution that we can think of, that might come to the rescue of the debtors in this country is the Credit Bank. We had the honest fear that unless some upper limit was not placed on the debt and a recommendation was not made by this House to the Government that preference should be given to the application of debtors that came under the operation of the Act, the rich and influential debtors of the country might divide between themselves what little is to be found in the Credit Bank and the middle class debtor might go even without the help that would be found there. That was the second reason for sending in amendments with the suggestion that an upper limit might be placed on the debts.

But, whatever that may be, we again find from the statement made by the Dewan that even that position is not practicable now. At the same time, Sir, we are relieved to hear that you have also considered that some step should be taken to see that the money available in the Credit Bank should go, as far as possible, to the relief of the middle class debtors. Therefore we find that in the two fundamental points about which we have got strong conviction there is not much possibility of an agreement between Government and ourselves. Therefore we realise that any attempt on our part to push through these amendments can only frustrate the possibility of quick enactment. We realise the anxiety with which the debtor element in this Assembly are looking forward to see the Bill passed into an Act. Therefore we do not want to stand in the way of their desire and be considered obstructionists in this matter.

I must make one more matter clear. This was never a party question. It seems that the Legal Remembrancer remarked yesterday that our party takes a particular view. I may say that our party, as a party, never took a view. Now in this matter I have consulted all the members of my party individually and they have authorised me to tell you, Sir, that under the circumstances we do not wish to move any of the amedments that stand in our names and that we only wish to see that the Bill is pushed forward through all its stages as quickly and expeditiously as possible and somehow the work is finished today so that it may have its course through the State Council also and be enacted, if possible, in the beginning of next year.

PRESIDENT: Order, Order. It is my duty, first of all, to thank the honourable member who has just sat down, for the speech that he has made, and, even more than that, for the spirit with which he has made that speech. There are, however, one or two remarks that I must permit myself to make.

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[President.]

It was my object during my opening remarks to have made it clear that one of the objects which Government have in view is, as far as possible, not to embark or allow courts to embark on exploratory enquiries which would mean and involve just those delays which it is the object of everybody to avoid. That has been one reason why the line that has been adopted in the present Bill has been taken up.

Then there was something said about two fundamental points having been given up. It appears to me that so far as the Credit Bank is concerned, the position had to be made clear. The Bank is a statutory and independent body, conducted by certain directors, according to statute governing them and in pursuance of the discretion vested in them. But, at the same time, if the Bank has to approach Government for financing the operations of the Bank, Government, to the extent to which they feel called upon, having regard to the conditions in the country, to go to the assistance of the Bank, can make it clear that that assistance should be on certain lines and subject to certain conditions. That Government would in all probability do, because Government are very anxious that the relief that is given should primarily and predominantly be given to the small debtor and that such limited help and assistance that the Credit Bank as it is just now constituted and with the expansion which Government hope to make should be carefully defined; and therefore, there is no jettisoning of fundamentals.

Let me conclude by saying that I am indebted to the political sagacity of the honourable members of the House for taking a step which I think will in the end conduce both to convenience and to widespread benefit.

MR. R. SAMBASIVA AIYAR (*Co-opted*): Sir, I rise to oppose the amendment. In opposing the amendment—

PRESIDENT: Order, order.

SAHIB BAHADUR P. S. MUHAMED: I beg permission to withdraw the amendment.

MR. R. SAMBASIVA AIYAR: I want to speak on the amendment.

PRESIDENT: Order, order. Any honourable member can withdraw an amendment, provided the House gives him leave to withdraw. As Mr. Muhamed has expressed his desire to withdraw the amendment, and if that withdrawal is opposed by you, as I take it that it is—

MR. R. SAMBASIVA AIYAR: It is opposed by me.

PRESIDENT: Then I wish to ask the honourable House to say whether it gives leave to the honourable member to withdraw. In opposing leave being granted to the withdrawal, I hope the honourable member will confine his remarks to the question of allowing the withdrawal of the amendment.

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MR. R. SAMBASIVA AIYAR: Sir, we were having a discussion on Mr. Muhamed's amendment when we adjourned on Saturday and when you, Sir, took the Chair this morning I caught your eye and I was about to speak on the amendment.

PRESIDENT: That you caught my eye goes without saying and the result of catching my eye is that you are now standing up.

MR. R. SAMBASIVA AIYAR: And I was about to begin and now that I have stood up and begun, I take it that as a member of the House it is my privilege to speak.

PRESIDENT: Order, order. Honourable member who spoke last is perfectly right in his observation. He made endeavours to catch my eye and he caught it. Having caught it, his right is to be allowed to speak. But, if certain events have happened subsequently which fundamentally alter the basis on which such speeches proceeded, then of course the question assumes a different aspect. The position, to put it simply, is this. There was an amendment which was being moved and which, I understand, was very hotly discussed. In the meanwhile honourable members wanted elucidation of the point of view of Government. They had it. After having listened to that elucidation, honourable members came to the conclusion that they were not going to press the amendment. It seems to me therefore that if the general sense of the House is in favour of allowing the honourable member to withdraw the amendment, it drops. It ceases to exist and obviously there can be no speeches thereafter. If the honourable member who is on his legs wants to go back to the period before this amendment was sought to be dropped, that, I think is an inadmissible procedure. What is your answer to that?

MR. R. SAMBASIVA AIYAR: My answer, Sir, is this. Honourable member Mr. P. S. Muhamed did not say that he was withdrawing his amendment before I got up a second time and caught your eye. It was only the Leader of the Opposition who said that the Nationalist Party had an idea of withdrawing all the amendments given notice of by the members belonging to that party. Of course, it was the duty of the honourable member Mr. P. S. Muhamed to say that he was withdrawing his amendment. I would then have said that I oppose it.

PRESIDENT: I have allowed you to oppose the withdrawal of the amendment. That is the stage now. What are the grounds on which you oppose the withdrawal?

MR. R. SAMBASIVA AIYAR: This is a matter which was discussed so much and is one which should be put to the vote of the House and on which the view of the House should be ascertained.

PRESIDENT: If the honourable mover of the amendment wishes to withdraw the amendment, it is not open to the honourable members, before the House makes up its mind to allow him to withdraw or not to withdraw, to have a vote taken on the subject-matter of

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the amendment. If the House allows the amendment to be withdrawn, then the amendment drops and ceases to exist and there can be no further discussion. If the House does not allow him to withdraw, then of course, the honourable member can speak and the House will have to vote on the merits of the amendment.

The question whether leave be granted to Mr. P. S. Muhamed to withdraw his amendment was put and the amendment was, by leave of the House, withdrawn.

PRESIDENT: The question before the House is that Clause 2 stand part of the Bill.

MR. R. SAMBASIVA AIYAR: Sir, I oppose. Clause 2 as it stands in the Bill contains certain definitions. For example, I will take first the definition of "Bank". 'Bank' means a public company carrying on in Travancore the business of banking at the commencement of the Act. And, 'public company' means a public company as defined in the Travancore Companies Act, IX of 1114 or in the Indian Companies Act 1913 or in the Companies Act of any Indian State or Foreign Government and includes a corporation formed in pursuance of any special enactment of Travancore, British India or the United Kingdom or by Royal Charter or Letters Patent.

Under these conditions, the definition of 'bank' does not include a co-operative bank. I would first address my argument on the question whether it is in the interests of the country that co-operative banks should be excluded or not from the definition of 'banks'. There are persons who follow the profession of law and Government servants who have a kind of monthly investment in certain recognised institutions such as the Central Co-operative Bank. Many of us are persons who have daughters to marry at the proper age. There is a system of deposit called 'provident fund deposit' in the Central Co-operative Bank. Every month a certain sum of money is invested in the bank and such investments will last for a period of years, say generally 12 or 15 years and even more. At the end of that period the whole amount with a certain interest is paid in a lump. There are many of us who have been and are still awaiting to get this kind of deposit. A monthly payment of Rs. 10 for a period of 12 to 13 years would enable us to get finally a sum of Rs. 2,000 and odd. We have been depending mainly on such forms of investment with a view to get our daughters married at the proper time. It has been done also with a view to encourage co-operation and co-operative institutions in the country. Some of us have been able to lay by money so as to be utilised for purchasing thrift certificates or for putting them in fixed deposits in co-operative banks mainly in the Co-operative Central Bank or in some urban banks in the town for further use. I am just mentioning this as an instance. The deposit receipts are being renewed at the end of the term which may generally be two years. We also receive an interest at the rate of 4½% on the sums invested by us. Once in six months we draw interest on

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the amount. At the end of the period the deposit receipt is renewed; but we continue to draw interest on that amount. Sometimes we draw money urgently by raising a loan on the security of that particular investment. According to Clauses 8 and 9 of this Bill, such investments would undergo a serious cut. Those of us who have been saving by thrift, by living below our means with a view to provide for our children and to get our daughters married, have been depositing their money in the Central Co-operative Bank and such like strong institutions. That kind of investment is our mainstay so to say. Under such circumstances, it is very hard to have the definition of 'bank' as is proposed in the Bill. The definition of 'Bank' should be such as to include institutions like the Central Co-operative Bank. That is my first submission.

As regards the amounts due to co-operative banks, the complaint seems to be that the banks are charging penal interest.

PRESIDENT: The honourable member is technically entitled to speak on all these definitions in the course of his speech. But for the purpose of convenience if the honourable member has any objection to other definitions in Clause 2 he might conclude his arguments on one definition first, when it can be put to vote and decided upon. In that manner the objectionable definitions may be settled. That procedure, I think will be more easy for purposes of debate. Has the honourable member finished his say on the definition of 'bank'?

MR. R. SAMBASIVA AIYAR: I have something more to say on that point.

PRESIDENT: It might be taken by the honourable House that this particular discussion is on Clause 2 (i) of this Bill.

MR. R. SAMBASIVA AIYAR: Therefore my submission is that the definition of bank should be so modified as to include co-operative banks in its ambit. That is one aspect of the matter.

As regards the amounts due to co-operative banks, the complaint generally is that debtors who have borrowed money from those institutions have to pay excessive interest. There seems to be a loud complaint that some co-operative banks are not dealing fairly with such class of debtors and that there is unconscionable dealing and all the rest of it. But then, public banks have been excluded. The same principle that governs the exclusion of public banks, I submit ought to govern also the consideration relating to all co-operative banks. The consideration that is advanced with regard to other institutions namely that they are public institutions and that their moneys belong to the share-holders—all these considerations should prevail with respect to the co-operative banks. The co-operative bank is not a one man's concern. It is a public concern. Therefore it is all the more reason why it should be excluded, and the definition of banks should cover that item. Further it is the idea of Government to encourage co-operation as well as co-operative institutions in the country. If interest in

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[Mr. R. Sambasiva Aiyar.]

excess of 9% per annum is charged by banks other than public banks then transactions of such banks are brought within the purview of relief provisions so far as this Bill is concerned. The banks which charge more than 9% interest are not given relief measures. They are allowed to realise their sums only according to sections 8 and 9 of the Bill. I am of opinion that these banks should not be compelled to get back their assets in reduced amounts. It is most illogical that a co-operative bank should be treated as a form of institution different from a public bank. I cannot understand why public banks alone should be shown undue sympathy. If there is any logic in this reason, I submit that it is absolutely wrong to differentiate between a co-operative bank and a public bank. My point is that there is no argument at all for not bringing co-operative banks within the definition of 'bank'. Many of us have put our money in the co-operative institutions with a view to encourage co-operative spirit among the people at large and also under the belief that Government would not interfere with the spread of the co-operative movement. It is hard that the definition of 'bank' should be so limited as not to include co-operative banks.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know whether the honourable member has suggested any amendment with regard to this matter?

MR. R. SAMBASIVA AIYAR: This aspect of the matter did not strike me at the Select Committee stage. As the idea struck me this morning I sent up an amendment to Clause 4 of the Bill.

PRESIDENT: The honourable member is perfectly right in bringing up such an amendment.

MR. E. SUBRAMONIA AIYAR (*Nominated*): Could not the idea suggested by the member be gathered from the definition of the public company which says that a public company means ..... .and includes a corporation formed in pursuance of any special enactment of Travancore.....

MR. R. SAMBASIVA AIYAR: In my view it will not come under that category. That definition will include institutions like the Credit bank. The idea of the Committee was to exclude Credit banks and institutions of that kind. The Co-operative societies are governed by a general act.

MR. M. SIVATHANU PILLAI (*Thovala* cum *Agastiswaram*): I beg to say a few words in this connection. There is a financing Co-operative Bank in Nagercoil. Ever since the depression began that bank experienced difficulties. The debtors had to repay their loans with penal interest. As a first measure to give relief to the share-holders of the bank who have taken loans from that institution, the payment of penal interest was abolished. That happened a few years back. During the subsequent year it was found that was not sufficient relief to the share-holders of the Bank. Members who have taken loans from that institution began to feel the pinch of depression more and

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more. As a greater measure of relief the bank resolved that they shall not in future levy such a high rate of interest as they did before. First of all that was reduced from 10 per cent. to 9 per cent., then to 8 per cent. and lastly to 7½ per cent. For the last few years that is the prevailing rate of interest. I understand that is the rate of interest that is now being charged by the Central Co-operative Bank in Trivandrum. In this connection it may be borne in mind that the financing bank at Nagercoil has taken a loan from the Co-operative Bank. That money is being utilised for distributing to various primary societies and individuals in that jurisdiction. In so doing something like 1½ per cent. is absorbed for meeting the establishment charges. It has been possible for this Bank to declare a dividend of something like 3 to 4 per cent. on various occasions which has benefited the share-holders. As Mr. Sambasiva Aiyar pointed out, the definition of bank does not include this kind of banks. What will be the position of that Bank? It may not be surprising to the House to be told that even now that Bank is not able to meet the deposits. Two or three depositors have already gone to the Court. In other words, if that is the position at present, even if they are willing to pay back their deposits, they are not able to find money when they are advancing money at the rate of 7½ per cent. So, my submission is that such of those financing Co-operative Banks which have been levying more than 9 per cent. interest may be brought under this Act. What is the peculiarity about other public Banks? So it stands to reason that such of those Banks which are lending money at the rate of 9 and less than 9 per cent. must be given this concession.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Legal Remembrancer to Government*): Does the Nagercoil Co-operative Bank owe any money to the Central Co-operative Bank borrowed prior to 23rd Dhanu 1112?

MR. M. SIVATHANU PILLAI: One such loan is still out-standing.

MR PUTHUPALLI S. KRISHNA PILLAI: Are there debts incurred before the 23rd Dhanu 1112?

MR. M. SIVATHANU PILLAI: My impression is that there may not be many debts incurred after 23rd Dhanu 1112.

MR. PUTHUPALLI S. KRISHNA PILLAI: May I know the reason why the Co-operative Bank like any other Bank has found it difficult to collect the money from their constituents?

MR. M. SIVATHANU PILLAI: The same argument applies not only to the public Banks but also to the Co-operative Banks. Why should there be any distinction between the Co-operative Bank and other Banks?

MR. PUTHUPALLI S. KRISHNA PILLAI: May I know who are the constituents of the Taluk Bank; whether they are not Co-operative Societies?

MR. M. SIVATHANU PILLAI: No. Co-operative Societies became constituents only after the passing of the Act. As a matter of fact even in the Central Co-operative Bank, more than 70 to 80 per cent. of the Share-holders are individuals and not Co-operative Societies. In the Nagercoil Co-operative Bank, out of 2000 and odd members, excepting 20 or 25 Societies, all the other constituents are individuals.

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MR. PUTHUPALLI S. KRISHNA PILLAI: I oppose the motion. I could have understood the member if he had brought forward an amendment.

PRESIDENT: I must inform the member that I have received two amendments o clause 4.

MR PUTHUPALLI S. KRISHNA PILLAI: An objection to the retention of this clause, I submit, is out of place, because, if the objection is carried, it means that the definition to the word Bank will disappear and there will be no meaning for the word "Bank" appearing in several of the clauses. I therefore oppose the amendment.

MR. M. SIVATHANU PILLAI. May I know whether he has any objection to include Co-operative Banks in this category?

PRESIDENT: The debate as well as the vote is in respect of clause 2 (i), *viz.*, the inclusion of a definition of the term "Bank". As I was mentioning just now, if this amendment is carried, this enactment will not have any definition of the word "Bank", so that when we go forward to clause 6, if it is passed, the word "Bank" will have to be construed without the light derived from a definition of the clause here and therefore according to the principle of general law. That is the net result of it.

MR. R. SAMBASIVA AIYAR: To make matters clear I submit that it would be much better if the definition of the word "Bank" is enlarged so as to include Co-operative Banks so that there may not be any occasion for any doubt on the matter hereafter.

MR. PUTHUPALLI S. KRISHNA PILLAI: That should be by means of an amendment.

PRESIDENT: If the honourable member had given notice of an amendment to this definition, the clause would have been alright. But he has given notice of an amendment to clause 4 and when that comes up the matter may be discussed on the merits. But so far as this clause is concerned, I shall have to put it to vote.

The question that sub-clause (i) of clause 2 stand part of the Bill was put and carried.

The sub-clause was added to the Bill.

Sub-clauses (ii) *to* (ix).

The question that sub-clauses (ii) to (ix) stand part of the Bill was put and carried.

The sub-clauses were added to the Bill.

Clause 3.

MR. E. SUBRAMONIA AIYAR: I move the amendment standing against my name. It is only by way of enumeration. Explanation to clause 3 as it stands now is this:—

> "Where a debt incurred before the 23rd Dhanu 1112 has been renewed or included in a fresh document in favour of the creditor after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of court to the contrary, be deemed to be a debt to which this Act applies."

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My amendment is that, "after the word 'renewed' delete the word 'or' and after the word 'included' insert the words 'or merged' and after the word 'document' insert the words 'or decree'." As amended the explanation will read thus :—

> "Where a debt incurred before the 23rd Dhanu 1112, has been renewed, included or merged in a fresh document or decree in favour of the creditor after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies".

Doubts may arise if the Explanation is not amended as suggested. Suppose on a debt incurred before 23rd Dhanu 1112 a decree has been obtained subsequent to 23rd Dhanu 1112. In such a case, will the Act apply to the decree? The decree is one obtained on a debt incurred before the 23rd Dhanu 1112. But the decree is passed subsequent to that date. Doubts may arise whether the Act will apply to such a decree because the decree itself is a debt for a debt, has been defined as any liability in cash or kind, whether secured or unsecured, due from any person, whether payable under the decree or order of a Civil Court or otherwise. So a decree itself is a debt and if the Act should apply to a decree, Section 3 would say that it must have incurred prior to 23rd Dhanu 1112. So to make it clear, even in the case of decree obtained subsequent to the time limit, that is, 23rd Dhanu 1112, upon a debt incurred prior to that date, I am moving this amendment to the Explanation.

MR. R. SAMBASIVA AIYAR: I have an amendment to clause 3 by which I move for the deletion of the whole Explanation. I submit that my amendment should first be allowed to be voted upon and then only this.

PRESIDENT: We shall have a discussion on Mr. Subramonia Aiyar's amendment and then call upon you to move your amendment. You want to delete the whole Explanation? Does anybody else wish to speak on Mr. Subramonia Aiyar's amendment?

MR. M. SIVATHANU PILLAI: I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I have no objection to accept the amendment. The learned member feels a doubt as to whether a decree passed after the 23rd Dhanu 1112 in respect of a debt incurred before that date would cease to be a debt to which the Act will apply. According to him when a decree is passed in respect of a debt the antecedent debt is extinguished. For certain purposes it may be so. To avoid a possible doubt and out of respect for the honourable mover, I am for adopting it.

MR. R. SAMBASIVA AIYAR: Sir, I move the amendment.

MR. PADIYARA JOSEPH KUNJU (*Changanacherry* cum *Peermade*): സർ, ഈ ഭേദഗതി അവതരിപ്പിക്കുന്നതിനെ ഞാൻ എതിർക്കുന്നു. അസംബ്ലി മാന്വൽ റൂ 0 0 –ാംവകുപ്പിൽ—

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[Mr. Padiyara Joseph Kunju.]

"If notice of a proposed amendment has not been given to the Secretary six clear days before the sitting of the Assembly at which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail.....".

ഇങ്ങനെയാണ് പറയുന്നത്. ജൂലൈ ഫസ്റ്റാണ് ഈ അമെൻഡ്മെൻറ് കൊടുത്തത്. ജൂലൈ രണ്ടാംതീയതി മീറ്റിംഗ് ആരംഭിച്ചു. ഈ വകുപ്പനുസരിച്ചുള്ള നോട്ടീസു ഇല്ലാത്തതിനാൽ ഈ ഭേദഗതി അവതരിപ്പിക്കുന്നതിനു അനുവാദം കൊടുക്കരുതെന്നു ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു.

MR. PUTHUPALLI S. KRISHNA PILLAI: The learned member has omitted to read the last portion of the rule.

PRESIDENT: I think the honourable member has made the position perfectly clear, and it is my duty to exercise the power in favour of the mover of this amendment for this simple reason that a number of amendments has been given out of time. As the Bill is of such importance I do not think it right that any honourable member should feel that he has not had his say; and I consider, on the whole, to exercise my discretion by allowing the honourable member to move the amendment.

MR. R. SAMBASIVA AIYAR: My amendment is that the Explanation to clause 3 be deleted and the following added to the main clause before the full stop:

"but shall not apply to any debt covered by any document executed after the said date."

According to the Explanation, if a debt is incurred before the 28rd day of Dhanu 1112 and is renewed after that date it must be treated as a debt to which this Act applies. According to clauses 8 and 9 various cuts are effected. Renewals after 1112 have generally been made only after effecting certain reductions even from 1105. Here in this House we have heard honourable member Mr. P. S. Muhamed moving that the year 1105 should be made the starting point for calculating the principal. That motion was not voted upon. It was then understood that whatever amount is found in the face of a document, whether it was the result of accumulated compound interest of centuries, or ready cash advanced, that amount should be considered the principal amount of the debt. Over this, the House has committed itself to such a principle that it did not make any distinction between any document. After that, this Explanation comes. By this Explanation it comes to this:—If there has been a renewal after the 23rd Dhanu 1112 again, that should be considered as a debt to which this Act applies. Let us see whether there is any morality or bonafides in this. The 23rd day of Dhanu 1112 is the date on which the Travancore Agriculturists Relief Act came into force. By the provision of Section 13 of the Act certain provisions were made for settling a transaction by Conciliation Officers.

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These were the provisions :—In proposing and making the conciliation, the Board may take into consideration the following, inter alia namely :—

(*a*) the equities of the debt transactions concerned,
(*b*) the amount of each of the debts,
(*c*) the amount of interest already paid, particularly after the commencement of the year 1105 M. E.
(*d*) the amount of the interest that has been allowed to accumulate,
(*e*) the duration of the transaction,
(*f*) the character of the debt, as for example, whether it is secured or unsecured, and the purpose of the debt,
(*g*) the ability of the debtor to pay,
(*h*) the availability of assets out of which the debts may be realised,
(*i*) the occupation, needs and other economic conditions of the creditor,
(*j*) the needs of the debtor and the necessity for leaving, as far as possible, a margin of property for the debtor's subsistence.

That is to say all kinds of considerations that can reasonably be made were embodied; and in fact by other provisions in the Act of 1112 it was provided that if any creditor was recalcitrant, if he did not settle the transaction in accordance with the principles embodied in Section 13, then he could be penalised for his recalcitrance. Therefore what I say is, that there was a definite law, something definite on which a debtor could go by before he should agree to a renewal. All the provisions for the amicable settlement of debts were embodied in those provisions in Section 13. Very many debts have been settled under these provisions. And renewals were also effected bearing in mind all these considerations.

MR. PUTHUPALLI S. KRISHNA PILLAI Does Section 13 deal with renewals or with conciliations.

MR. R. SAMBASIVA AIYAR : Section 13 embodies certain principles which should guide the Conciliation Officer in effecting settlement between debtors and creditors in the matter of disputes between them. These considerations were meant to guide not merely the Conciliation Officer. These considerations were in the mind of creditors and debtors when they voluntarily renewed their transactions. No respectable creditor would merely for the pleasure of it tease a debtor. In fact many fresh renewals have been effected by mutual agreement bearing in mind all the considerations contained in Section 13 of the Act of 1112; and large concessions have also been made by creditors in many instances. It cannot be said that the Travancore debtor is a fool to arrive at an agreement with closed eyes. The Relief Act of 1112 was the out-come of a persistent agitation by the debtors. At first a committee was constituted to report and this committee reported after taking evidence from all over the State both from the debtor and the creditor side. They took evidence from taluk to taluk and from

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[Mr. R. Sambasiva Aiyar.]

pakuthi to pakuthi. Goverenment considered the report of the committee. This House considered it and as a result of those considerations the Agriculturist Relief Act of 1112 was passed,

PRESIDENT: The House will now adjourn to meet again at 2 P. M.

The House reassembled at 2 P. M. with the Dewan—President in the Chair.

MR. R. SAMBASIVA AIYAR: I will only just refer to another section in the Agriculturists' Relief Act, Section 19, which reads as follows:—

PRESIDENT: Order, order. I hope there will be no objection to the House sitting from 11 o'clock tofnorrow instead of 12. There are special reasons for that, I ought to have mentioned this before the House rose,

(Honourable members indicated assent.)

PRESIDENT; The House will sit from 11 o' clock tomorrow.

MR. R. SABMASIVA AIYAR: If a creditor grows recalcitrant or, if he does not agree to a reasonable settlement at the time of the renewal, he would get only 4 per cent interest in the year 1115 and that is all the recommendation that is now made by the Debt Relief Committee. That is the recommendation that was made by the Nationalist Party at the time they tabled the amendment. What Mr. Padmanabha Pillai has meationed is that that there must be a reduction in the rate of interest from the year 1105. That was the penalty that the recalcitrant debtor had to undergo if he did not come to a reasonable settlement with the creditor. That was power which was already in the hands of the Conciliation Officer. I have already submitted that there are no such restrictions with regard to the renewals made before the date of the Act. Renewals made after the Act are known. They have again to be submitted to a further reduction. My submission is that there is neither logic nor morality in this kind of arrangement. Therefore, I submit to this House that this explanation should be deleted and the thing made clearer. I have the following to be added at the end of the main clause;—

> "but shall not apply to any debt covered by any document executed after the said date".

The idea is that if a document has been renewed after 1112, the presumption is that it is renewed after substantial reduction. There is no question of the creditor having over-reached the debtor. Therefore, this document could not be interfered with. That is my submission.

MR. S. KRISHNA AIYAR (*Nominated*): I second the motion.

MR. PUTHUPALLI S. KRISHNA PILLAI: I oppose the motion. Section 10 of the Agriculturist Debt Relief Act was enacted for a certain purpose. That section contains the main lines on which the Conciliation Officers invested with the powers under the Act are empowered to settle transactions. Even in the case of such officers these powers are subject to certain restrictions. Mr. Sambasiva Aiyar said that the powers with which the Conciliation Officers were invested under Section 13 of the Agriculturist Relief Act were availed of by the creditors

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and every debt has been dealt with in accordance with the conditions of that section. That is to say, every creditor, having regard to the conditions of the debtor entered into negotiations with him and got his renewal. It does not stand to reason to suppose that the creditor has exercised that power in the manner in which it could have been exercised by the Conciliation Officer. If the creditor, of his own accord, has been the arbitrator in this matter, it cannot be supposed that justice has been done to the debtor. To say that a renewal of a debt taken by a creditor which existed before that Act came into force should be deemed to have been a renewal which was taken bearing in mind all the various beneficial provisions contained in Section 13 of the Act, is rather too much. If Mr. Sambasiva Aiyar's argument were that agreements effected by Conciliation Officers should be excluded because they were agreements entered into on the faith of the provisions contained in that Act, I could understand his position. But to say that a debt which has been renewed by a debtor at the request of the creditor is a debt which ought not to be affected by the provisons of this Act, is an argument which does not appeal to me at all. After all, what is it that is done or implied under this provision ? It merely says that because a debtor has been loyal to his creditor, that because the debtor on account of his unwillingness to drive his creditor to litigation, he should not be put at a greater disadvantage than those who have been unfaithful or disloyal to the creditor who advanced the money.

MR. R. SAMBASIVA AIYAR : One question, Sir. If a creditor, at the time when the document is about to become time-barred, accepted a renewal instead of pursuing the matter in the court, can it be said that it was an act of loyalty alone on the part of the debtor? Whether it was not an act of grace shown by the creditor to the debtor instead of driving the latter to the court ? I would ask whether the debtor has any other option than to accept the renewal or to go to the court ?

MR. PUTHUPALLI S. KRISHNA PILLAI : There are only two possibilities in such cases. If the debtor refuses to acknowledge the debt and execute the renewal deed, the only course open to the creditor is to rush to the court. Therefore, in a case where the debtor did not compel the creditor to go to the court and spend money and came forward and voluntarily executed a renewal deed or acknowledged the debt in order to save limitation, is it that that debtor should go without relief and the other debtor who compelled the creditor to go to the court should be in a better position ? I cannot believe that any honourable member of this House will accept that argument. That man who readily and willingly respected the wish of creditor should have at least an equal chance with the man who opposed or objected. Mr. Padiyara Joseph Kunju argued that he should have a better treatment. I do not want to give him a better treatment on account of his മുഴപ്പ. There is no question of 'മുഴപ്പ' or 'അപമുഴപ്പ' in this case. Honourable members will find that, throughout the provisions of this Bill, that principle has been put in forefront. Because a man has been very polite and loyal to his creditor he should not be handicapped. Between a man who

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[Mr. Puthupally S. Krishna Pillai.]

pays the interest regularly and the other who does not pay, no doubt, the former must get a preferential treatment. The same position must be accepted in the case of one who prevented the debt from becoming time-barred. He should not be worse off than the bad debtor. I am therefore not in a position to support Mr. Sambasiva Aiyar's argument.

The question that in clause 3 delete the Explanation and add to the main clause before the full stop, the following ;

"but shall not apply to any debt covered by any document executed after the said date" was put to vote and lost.

The question that Mr. E. Subramonia Aiyar's amendment "In Clause 3, 'Explanation', after the word 'renewed' delete the word 'or' and after the word 'included' insert the words 'or merged' and after the word 'document' insert the words 'or decree'" was put and carried.

The question that Clause 3 as amended stand part of the Bill was put to vote.

MR. R. SAMBASIVA AIYAR : Sir, I oppose it. The principle embodied in clause 3 as found in the Bill will apply to every debt, without considering the paying capacity of the debtor. I should submit this is a very wrong law.

MR. T. C. KESAVA PILLAI : May I know whether there is any time limit for the discussion ?

PRESIDENT : No.

MR. R. SAMBASIVA AIYAR : The Bill does not take into consideration the paying capacity of the debtor in the matter of giving relief to debtors. The Legal Remembrancer referred to the speech made by my honourable friend Mr. Padiyara Joseph Kunju yesterday but did not meet the objection raised. He put the point quite correctly and from a reasonable point of view, from the point of view of the debtor. His point was this. There are two debtors, both able to pay. One of them is honest and the other is dishonest. Mr. Kunju complained that the honest debtor and the dishonest debtor are allowed concession equally by this Bill. When we take away from the creditor a particular amount by means of legislation, Mr. Kunju said we should see that there is some sort of equity in distributing the proceeds. Now when it comes to a question of distributing the proceeds obtained by this legislation, it is seen that there is no equity according to the principle embodied in clause 3. According to clause 3 no distinction is made between a debtor who have been all along paying interest regularly and the debtor who has never paid interest. A debtor who has incurred a debt of Rs. 100 in the year 1104.- I assume that there has been no renewal,—and who has not paid any interest need pay only Rs. 105 in full discharge of the debt, because the creditor can get only 70 per cent. of the principal plus interest not exceeding 50 per cent. of the principal. Such a kind of debtor Mr. Padiyara Joseph Kunju classes as a മുടമ്പില്ലാത്ത debtor, Such a debtor need pay only Rs. 105 after having enjoyed the amount for 12 years. On the other hand, the

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honest debtor who has been paying interest regularly for all these 12 years should now pay – here too I assume that there has been no renewal—must have already paid an amount far in excess of the principal and he must nevertheless still pay Rs. 70 because the principal is the same both for the honest debtor and for the dishonest debtor. My objection to the clause as it stands is that a distinction should be made between these two classes of debtors.

But the fundamental objection to the clause is that a distinction should be made between the debtor who is unable to pay. If this distinction had been borne in mind, this anomaly would not have happened. We know, Sir, that there are many Government servants who get high salaries and who according to the principle embodied in clause 9 need pay only 70 per cent. of the debt. An officer drawing Rs. 1,000 can easily get Rs. 500 on credit and he need pay only Rs. 350.

MR. PUTHUPALLI S. KRISHNA PILLAI: What happens in the case of money-lenders who have borrowed money?

MR. R. SAMBASIVA AIYAR: It is also a debt and as such it should be treated in the same way as any other debt. All my objections relate to money lender's debts also.

I have submitted that the distinction between the debtor who is able to pay and the debtor who is not able to pay has not been kept in view in framing this Bill. The poor debtor should no doubt be treated with sympathy because he too has got to support a wife and children. The necessaries of life should not be denied to him because he has borrowed. Poverty is no crime. That does not mean that a person who is able to pay should be allowed this privilege This, I submit, Sir, is the root defect in clause 3 of the Bill, as has been shown by no less a person than Mr. Padiyara Joseph Kunju I do not propose to go over this point further.

We will now take the enactments in other parts of India. In some form or another, this principle is sought to be embodied in the Bill in Madras and in Cochin. The Dewan in the address to the Joint Assembly at the time the report of the Debt Relief Enquiry Committee was introduced stated that this principle should be kept in view. He gave us all to understand that this was a view that appealed to him and we all hoped Sir, that that view would find itself embodied in some form or other in this Bill. But it is significant by its absence. I submit, Sir, that this is a fundamental defect and therefore the whole provision should be recast in such a way that the principle of affording relief only to those who are unable to pay may be embodied. Otherwise it is grotesque and absurd and the House would be doing a very great injustice to so many poor creditors. The Legal Remembrancer seems to be always obsessed with money-lenders who seem to be a nightmare to him. I am not concerned with money-lender debtors nor am I concerned with some heavily indebted debtor princes. I am only concerned with the ordinary debtors and the small creditors to whom small amounts are very valuable and this House should ignore both the big creditor and

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the big debtor and should legislate for 95·2 per cent. of the debtors whose individual debts are only less than Rs. 5,000 according to the report of the Debt Relief Enquiry Committee.

MR. PADIYARA JOSEPH KUNJU: Sir, I move that the question be now put.

MR. PUTHUPALLI S. KRISHNA PILLAI: The closure motion cannot be moved so as to interrupt a member who is speaking.

MR. PADIYARA JOSEPH KUNJU: This is the ruling of the Chair at page 259 of the rulings published by Mr. M. N. Parameswaran Pillai.

PRESIDENT: What is the point?

MR. PADIYARA JOSEPH KUNJU: I move for a closure. വെറും ആവത്തനങ്ങൾകൊണ്ടുമാത്രം സമയം കളയുകയാണ്. ഈ ബിൽ ഇപ്പോൾ ഇവിടെ പാസാകാതിരുന്നാൽ പിന്നെ അടുത്ത വൃശ്ചികമാസത്തിൽ മാത്രമേ ഈബില്ലിനെപ്പറ്റിയുള്ള വാദപ്രതിവാദങ്ങൾ നടക്കുകയുള്ളൂ. അതുകൊണ്ടു ഏതുവിധത്തിലെങ്കിലും ഈ സമ്മേളനത്തിൽ ഈ ബിൽ പാസ്സാക്കാതിരിക്കണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ബഹുമാനപ്പെട്ട മെമ്പർ ആവർത്തനങ്ങൾകൊണ്ടുമാത്രം സമയംകളയുന്നത്. അതുകൊണ്ടു ഈ ഭേദഗതിയെപ്പറ്റിയുള്ള വാദപ്രതിവാദം അവസാനിപ്പിക്കണമെന്ന് ഞാൻ അപേക്ഷിച്ചുകൊള്ളുന്നു.

MR. M. SIVATHANU PILLAI: May I know whether the honourable member is in order?

PRESIDENT: Honourable members will resume their seats. The rule is perfectly clear that a motion for closure should not interrupt the remarks of any honourable member. If after the honourable member has finished Mr. Padiyara Joseph Kunju wishes to move the motion for closure, then if I consider that the debate has been reasonably sufficient I will have the sense of House taken.

MR. M. SIVATHANU PILLAI: May I know whether the member is in order when he proceeded to attribute motives to Mr. Sambasiva Aiyar that he deliberately wanted to put off the passing of the Bill?

PRESIDENT: What is the harm in legislative business being blocked? There is absolutely no harm. It is perfectly good legislative morals.

MR. PADIYARA JOSEPH KUNJU: ഈ ബിൽ ഞങ്ങൾക്കു തൃപ്തികരമായതുകൊണ്ടല്ലാ ഞങ്ങളുടെ ഭേദഗതികളെ പിൻവലിക്കുന്നത്.

PRESIDENT: Order, order. I will give full scope for Mr. Padiyara Joseph Kunju to put forward his point of view and intimate to the House his own reading of the situation as soon as Mr. Sambasiva Aiyar has finished.

MR. R. SAMBASIVA AIYAR: I was submitting, Sir, that due to this fundamental defect in the Bill the whole thing requires to be recast in the general interests of the credit of the country. Some of the anomalies that result from the principle embodied in clause 3, I have already mentioned earlier and I do not propose to take up the time of the House by repeating them. One thing is very clear. Creditors may not be so

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vociferous as the debtors. They may not command a majority in the Legislature. But, nevertheless, I submit, Sir, with great pain that the credit interests of the country are likely to institute a regular credit blockade if this thing goes on. It is not meant to be a threat. I am only performing my duty as a member of this House in bringing to the notice of the honourable members that if creditors are wantonly discriminated, and if relief not warranted by morals is allowed merely because the debtor interest happens to command the majority, the general interest of the credit of the country is at stake. Therefore I humbly submit that the paying capacity of the debtor should be the main criterion and should be kept in view when a Bill is brought for affording relief to debtors. It should be a relief to the needy. The relief should not be thrust upon the person who does not need it. Why should a rich man who has more than a lakh of rupees as assets be asked to pay only Rs. 700 in repayment of a debt of Rs. 1,000? That I say is my main object in opposing the clause.

MR. C. JEBAMONY NADAR: May I know whether the member is in order in making a speech when the question that a clause stand part of the Bill is put?

PRESIDENT: The member is in order. The question is whether the House would approve or disapprove of a particular clause standing as part of the Bill. Any member can object to its standing part of the Bill.

The question that clause 3 as amended stand part of the Bill was put and carried.

Clause 3 as amended was added to the Bill.

Clause 4

MR. N. NARAYANA KURUP (*Ambalapuzha* cum *Shertala*): I move the following amendment:

> In Clause 4, sub-clause (d), add after "Edavagai Act" the words "if it has been incurred" after 1-1-1107".

With the amendment the sub-clause would read as follows:

> "Any liability arising out of any transaction in the nature of a lease including a *Kanapattom* as defined in the Travancore Jenmi and Kudiyan Act of 1071 or any *michavaram* or other dues due to an Edavagai by virtue of the provisions of the Travancore Edavagai Act, if it has been incurred after 1-1-1107".

The object of the amendment is to include all debts incurred before 1-1-1107 also in the bill. In other words that relates to all debts incurred during depression period. This House has seen that after 1-1-1107 the price of agricultural produce has diminished considerably and there has been a sudden and steady fall subsequent to that. Therefore the debtors are not able to pay their debts including interest or part of principal. Consequently the debt has accumulated to a large extent. It is therefore just and reasonable to allow concessions with regard to lease debts incurred before 1-1-1107 and include them in the ambit of this legislation. With these observations I move my amendment.

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MR. KANNANTHODATH JANARDANAN NAIR: I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: I oppose the amendment. The Agricultural Debt Relief Committee after consideration of the various classes of debts which in their opinion ought to be excluded made a proposal couched in the language in which it appears in sub-clause (d). I have not made any alteration in that provision, when the original bill was drafted. I may say that this clause itself was subjected to further scrutiny by the Select Committee consisting of the whole House and it was not thought necessary to make any change in it. The change that is now sought to be made by my honourable friend in this section does not appear to have any justification. The reasons which weighed with the Debt Relief Committee, the framer of this Bill and the Committee of the whole House for the exclusion of liabilities arising from transactions in the nature of a lease including a *Kanapattom* are too well known to require any repetition. Therefore I oppose the amendment.

MR. N. NARAYANA KURUP: It is ascertained from Statistics that there are debts amounting to Rs. 29 lakhs relating to such transactions. There are also about 24,000 decree debtors in this category. The G.O. appointing the Debt Relief Committee directed the Committee to give maximum relief to the Agricultural debtors and qualified relief to other debtors. By excluding these transactions, we are excluding the real agriculturists from the ambit of the relief measure. The reason suggested by the Legal Remembrancer is not convincing. I am of opinion that the lease debts incurred before 1-1-1107 should also be included in the ambit of this legislation so as to lessen the debts-burden of the real agriculturists' *i. e.*, the lessees. The relief claimed in the amendment is reduction of interest and easy instalments. If these debts are not included the object of this legislation itself will be defeated.

MR. E. E. PANDARATHIL (*Travancore Jenmies, South*): Substantial relief has been accorded to tenants by most of the Chiefs of Edavagais already and the collection is done by officers lent and authorised by Government to do so according to the Edavagai Act. The Government have undertaken to collect the arrears on behalf of the Edavagais according to the Act and any reduction would be unjust as it would go against an undertaking of a third party and it will be highly inequitable.

The amendment of Mr. N. Narayana Kurup was put to vote and declared lost.

MR. N. NARAYANA KURUP: I move the following amendment. In clause 4, sub-clause (h), after the words "purchased for" delete the whole and add the words "for the purpose of trade". With the amendment the sub-clause would read thus:

"Any debt which represents the price of goods purchased for the purpose of trade".

The object of the amendment is to include all debts incurred for the purpose of trade, also in the bill. A trader gets back the whole amount he has loaned out as price of goods without any reduction whatsoever. At the same time he is allowed to pay his debts to others, borrowed for the purpose of trade at a reduced rate. What he has

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borrowed from others for the purpose of trade undergoes reduction. That provision is not reasonable and it is unjust. Therefore I move my amendment for the acceptance of the House.

MR. R. SAMBASIVA AIYAR: Sir, I have an amendment on this point.

The sub-clause with the amendment as proposed by Mr. Narayana Kurup would read thus:

"Any debt which represents the price of goods purchased for the purpose of trade".

My amendment is in respect of enlarging the scope of the definition. I submit that Mr. Kurup's amendment if accepted would restrict the definition. Instead of the expression "for any purpose whatsoever" Mr. Kurup wants "for the purpose of trade". That does not mean that debts incurred for the purpose of trade are sought to be excluded. My point is, I may be allowed to move my amendment because it embraces any debt which represents the price of goods purchased for any purpose whatever.

PRESIDENT: Your turn will come for moving the amendment.

The amendment of Mr. Narayana Kurup fell through for want of a seconder.

MR. J. E. A. PEREIRA (*Commerce and Industry, South*): I beg to move the following amendment:

In clause 4, add the following as sub-clause (K).

"(K) any debt incurred for purpose of trade".

MR. R. SAMBASIVA AIYAR: I do not want to move my amendment. I agree with this amendment, Sir.

MR. J. E. A. PEREIRA: Finance is a very material item for trade purposes. The Dewan President has stated that the credit machinery of the State should not be impaired. It is in consonance with that. I have moved the amendment. The wording of the amendment may not be perfect and therefore I leave it to the ingenuity of the Legal Remembrancer to modify the amendment in order to bring out my idea. As I said on a previous occasion we have to approach the debt relief problem in a spirit of compromise. From the point of view of the debtors the relief provisions suggested here may not be satisfactory. Similarly the creditors also should be satisfied with a certain ratio of relief. Therefore I have to explain why I am not satisfied with this ratio of relief. No doubt, under the clause, price of goods bought 75% of trade debt is covered. But 25% which is left out at present comprise the merchants who lend money for financing trade. I fear that the qualitative importance of this 25% is greater than the other, and if this is left out, the purpose of ordinance may be defeated in that it may bring about the dislocation of credit and it may be faced with a bigger problem than what we have at present.

The burden of rural indebtedness is very deep rooted. The debt of the agriculturists is veritable mill stone tied round their neck which is pulling them down at every step. It is a severe handicap for them. So much so, they cannot do anything It is not so in the trade indebtedness. It is not deep rooted some how or other in spite of the handicap the trade is rotating and is going on. The Trading classes have adapted

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[Mr. J. E. A. Pereira.]

to the changed circumstances and we should consider very seriously before we do anything to impair the credit of the trade.

I am in a very perplexing situation because of the fact that the Nationalist Party have decided not to move their amendments. The natural inference I have to draw from such a procedure is that they may vote the amendments moved by the other members. I appeal to the Leader of the party as well as the other members to sympathise with my position and see that the credit machinery of the country is not allowed to collapse. Money is vital so far as business is concerned. As a merchant I am very anxious that the honourable members should clearly understand this question. I also appeal to the Legal Remembrancer to see to the correctness of the amendment moved by me.

If my amendment is not quite suitable, I have no objection to modify it suitably. I make an earnest appeal to the Legal Remembrancer as well as the Leader of the Nationalist Party and the other members to view the amendment sympathetically

SAHIB BAHADUR M. K. MACKAR PILLAI (*Kunnatnad* cum *Parur*): I second it.

MR. R. SAMBASIVA AIYAR: In supporting the amendment I would like to make one or two observations. It has been argued that it is difficult to find out which are trade debts and which are not trade debts. I submit that there is no such difficulty. Sub-clause (h) says "any debt which represents the price of goods purchased for any purpose whatsoever." A merchant orders goods from Bombay. He gets an invoice for the value of goods. He goes to a Banker and says "On my behalf please pay the money." Then the Banker sends the money to the Bombay merchant as per the advice of the local merchant. So there is absolutely no difficulty to find out which are trade debts and which are not trade debts. When this amendment was moved in the Select Committee it was objected to by the Legal Remembrancer who said that it is not possible to differentiate between the one and the other, much evidence has to be let in, and all the rest of it. There is no such complication. It is a matter which can be easily found out by evidence. Therefore I very strongly support this amendment. I hope that because I support it, it may not be lost.

MR. PUTHUPALLI S. KRISHNA PILLAI: The leaders of one or two parties were invited to offer their remarks on this motion. As a mark of respect for the framers of this Bill and as the member in charge of the Bill I stick on to the principles contained in the Bill, and shall not support any motion that may interfere with the provisions of this Bill unless I am satisfied that there is fundamentally something wrong in the provisions of the Bill. There cannot be any better reason in support of my attitude. But in spite of the attempted ravages by the representatives of the credit or debt interests, I will be faithfully and, to some extent, gallantly opposing them. The provision with regard to debts due as value of articles purchased for any purpose whatsoever was deliberately put in the original Bill. The reasons were explained by me at that time. It was then urged that trade debts, that money borrowed for the purpose of purchasing those articles should be excluded. I said that if you purchase an article you are in duty bound to

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repay its value. An article may be purchased for various purposes. These may be grouped under two heads, articles of necessity and articles of luxury. Probably, articles purchased for the purpose of trade may form a group by itself. Some people may be purchasing articles for the purpose of making a profit. All these things are included. Now, the honourable member Mr. Pereira wants to take away debts incurred for the purpose of purchasing them. That is going one step further than what we have in the Bill.

MR. R. SAMBASIVA AIYAR: May I know what is the difference in principle between purchasing goods and advancing money for the purpose of purchasing those particular goods?

MR. PUTHUPALLI S. KRISHNA PILLAI: One is a case where money is advanced and interest earned. The other includes cases where no question of profit comes in. It is to satisfy a man's immediate necessity or to satisfy his idea of luxury.

MR. R. SAMBASIVA AIYAR: Do the merchants purchase them for the sake of charity?

MR. PUTHUPALLI S. KRISHNA PILLAI: If my friend had correctly understood what I said, there would not have been an occasion for this question.

MR. R. SAMBASIVA AIYAR: What is the difference between a merchant purchasing and a Banker advancing money for the purchase? My question is with regard to a merchant purchasing and a Banker advancing money for the purchase.

MR. E. SUBRAMONIA AIYAR: May I know whether there is any distinction between transactions between traders and transaction between a trader and a money lender?

MR. PUTHUPALLI S. KRISHNA PILLAI: There is a lot of difference. The provision with regard to sub-clause (h) has been included for sound reasons. But that reason cannot be advanced in justification of this argument. If we are to support Mr. Sambasiva Aiyar's argument, then we will have to adopt the same argument in respect of all other advances made Therefore it is that I say that I am not in a position to accept the amendment. I oppose it.

MR. J. E. A. PEREIRA: Sir, I am not at all convinced by the reply of the Legal Remembrancer. I cannot understand why the relief cannot be granted to the Bank if they had charged over 9 per cent. In my humble opinion this Banking class should be protected.

MR. PUTHUPALLI S. KRISHNA PILLAI: I may be permitted to offer one word by way of explanation. My friend Mr. Pereira wants that debts incurred for the purpose of trade must be excluded. As I understand, they are debts incurred every day for transactions which a trader has to enter into as occasion demands. It must always be borne in mind in discussing the amendment now proposed that this Bill does not apply to any debt incurred after the 23rd Dhanu 1112. Most of the operating trade debts will be debts incurred after 1112. Now it may be that there are debts incurred before the 23rd Dhanu 1112 which remain unpaid on the date on which the Act may come into force. It is in the interests of those who have advanced money that they should

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[Mr. Puthupally S. Krishna Pillai.]

get back at least a portion of the money. After very careful consideration of all these facts I have come to the conclusion that debts incurred for the purposes of trade would not, to a substantial extent, be affected by the provision contained in the Bill. In the case of stale debts, it is better that the creditor gets at least a portion of the money. In either case, he is not affected. Ordinary, daily transactions will not be affected. It does not affect transactions which were entered into during the last three years. Am I to believe that a trade debt which has to be settled at the close of every year would remain as a debt if he is a proper debtor after the lapse of three years? At the end of every year a cheque on some Hundi merchant would have settled the transaction. If he is a proper debtor the accounts would have been thrice adjusted by this time. I cannot believe that there can arise any real difficulty. But in the case of bad debts, it is better that the creditor takes this opportunity for making his best out of his bad bargain.

(At this stage the President left the hall and the Deputy President took the Chair.)

MR. J. E. A. PEREIRA: I can only say that I very much regret the wholesale unbelief given expression to by the Legal Remembrancer. I am surprised that he should say there will not be cases of debts lasting more than one or two years. I can assure the Legal Remembrancer that in commerce it is common to find debts of over five years or even seven years. There are traders who are hard hearted and there are other traders who are good hearted and who allow a long time for the debtor to repay.

As regards my friends of the National party I cannot understand their attitude. I say so because this is a provison which only deals with the transaction between traders and in their championing the cause of the debtors, I do not see why they cannot accept this in as much as this does not affect the debtors in the least. Having explained so much I leave the matter for the House to decide.

The amendment was put to vote and declared lost.

MR. R. SAMBASIVA AIYAR: Sir I move that in Clause 4, the following may be added as a sub-Clause :—

"costs decreed or ordered by courts in civil cases."

Nowhere, Sir, have the costs incurred in courts been allowed to be cut. It is most inequitable that a creditor who has spent money to obtain a decree is penalised by cutting down the costs he had to bear in obtaining that decree by legislation. There is absolutely no equity or justice in this. This is as good as imposing penalty on a creditor for resorting to legal remedy. It is now sought to cut down such amounts that a creditor was forced to spend to get a decree. I am submitting that it is obviously unjust. There is no morality in this. I appeal to the House to accept my motion.

MR. C. JEBAMONY NADAR: I second the motion.

MR. PUTHUPALLI S. KRISHNA PILLAI: I oppose it.

The amendment was put to vote and declared lost.

MR. R. SAMBASIVA AIYAR:— - ——

MR. N. NARAYANA KURUP: Sir, on a point of order. After amendment No. 28 we have jumped to amendment No. 50. Amendment

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Nos. 29 to 49 were not called. Amendment No. 7 in the second list was put to vote just now. Then the Chair called Mr. Puliyoor T. P. Velayudhan Pillai.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, the honourable member wants to move amendment No. 38.

MR. JOSEPH KUNJU: Sir, on a point of order. ൭൦-ാമത്തേതി ഗതി വാദപ്രതിവാദത്തിനു എടുത്തതിനുശേഷം ന.വ-ാമത്തെ ഭേദഗതി എടുക്കുന്നതു ശരിയാണോ?

DEPUTY PRESIDENT: Amendments can be taken up in any order.

MR. N. NARAYANA KURUP: Sir, I beg to move the following amendment:

"In Clause 4, sub-clause (i), add after the last word "sold" the words "if the sale has taken place after 1-1-1107."

Sir, the object of the amendment is that the advantage of the provision, may be extended to debtors, of pre-depression period. With the reduced amount of vendor's lien, the vendor can purchase either the same property sold, or some other property with better yield, for the money value has increased since 1-1-107. Therefore it is only fair to include all vendor's lien also in the ambit of this Act. Hence this amendment.

MR. R. SAMBASIVA AIYAR: I second the motion.

MR. PUTHUPALLI S. KRISHNA PILLAI. I oppose the motion, Sir.

The motion was put to vote and declared lost.

MR. N. NARAYANA KURUP: I demand a poll.

A poll was taken and the House divided as follows:

AYES.—6.

1	Mr. S. Govinda Pillai	4.	Mr. N. Ramakrishna Pillai
2	,, Varkala K. Madhavan	5	,, M. Ramiah Pillai
3	,, N. Narayana Kurup	6.	,, R. Sambasiva Aiyar

NOES—27.

1	Mr. P. C. Adichan	14.	Mr. Puthupalli S. Krishna Pillai
2.	Sahib Bahadur V. Chandamiah	15.	,, C. Kumara Das
3.	Mr. K. Dominic Joseph	16.	,, P.V Mathai Chemparathy
4.	,, D. Francis	17.	,, K. Narayanaperumal Nadar
5.	,, A. Gopala Menon	18.	,, K. R. Narayana Aiyar
6.	,, K. V. Joseph	19	,, M. K. Nilakanta Aiyar
7.	,, Padiyara Joseph Kunju	20.	,, Kainikkara M. Padmanabha Pillai
8.	,, Joseph Vithayathil	21.	Dr. H. Parameswaran
9.	,, Menatheri N. Kesava Panickar	22.	Mr. M. Ramachandra Rao
10.	,, T. T. Kesavan Sastri	23.	,, K. Sankaran
11.	,, Kaviyoor K. K. Kochukunju	24.	,, V. R. Sankaranarayana Pillai
12.	,, Thamarappallil Kochu Thommen	25.	,, S. Sundararajan
13.	,, N. R. Krishnan	26.	,, N. Velu Achari
		27.	,, P. Vivekanandam

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NEUTRALS—14.

1. Mr. Kottalil P. Abraham
2. Srimati K. Devaki Antharjanam
3. Mr. C. Jabamoney Nadar
4. ,, S. Krishna Aiyar
5. ,, P. Kunjukrishnan
6. ,, Murukumpuzha V. Kunjukrishnan
7. ,, K. Kunju Panickar
8. Sahib Bahadur P. S. Mahamed
9. Mr. S. Narayana Pillai
10. ,, P. Narayana Pillai
11. ,, M. R. Narayana Pillai
12. ,, K. R. Narayanan
13. ,, E. Subramonia Aiyar
14. ,, Puliyoor T. P. Velayudhan Pillai

The motion was declared lost.

MR. N. NARAYANA KURUP: I beg to move the following motion:—

"In Clause 4, sub-clause (i), add after the last word "sold" the words "if the creditor does not proceed against the person and other properties of the debtor.'

The object of the amendment is this. The creditor should satisfy himself for the debts with the property sold by him. He should not proceed against the person or other properties of the debtor purchaser.

MR. PUTHUPALLI S. KRISHNA PILLAI: I oppose the amendment, Sir.

The motion was put to vote and declared lost.

MR. N. NARAYANA KURUP: I demand a poll.

A poll was taken and the House divided as follows:—

AYES—4.

1. Mr. S. Govinda Pillai
2. ,, Varkala K. Madhavan
3. Mr. N. Narayana Kurup
4. ,, N. Ramakrishna Pillai

NOES—17.

1. Mr. Kottalil P. Abraham
2. ,, Sahib Bahadur V. Chandamiah
3. ,, D. Francis
4. ,, A. Gopala Menon
5. ,, K. V. Joseph
6. ,, Joseph Vithayathil
7. ,, Puthupalli S. Krishna Pillai
8. ,, C. Kumara Das
9. Mr. P. V. Mathai Chemparathy
10. ,, K. R. Narayana Aiyar
11. ,, M. K. Nilakanta Aiyar
12. Dr. H. Parameswaran
13. Mr. M. Ramachandra Rao
14. ,, K. Sankaran
15. ,, V. R. Sankara Narayana Pillai
16. ,, S. Sundararajan
17. ,, N. Velu Achari

NEUTRALS—20.

1. Mr. P. C. Adichan
2. ,, K. Dominic Joseph
3. ,, C. Jabamony Nadar
4. ,, Menatheri N. Kesava Panickar
5. ,, Kaviyoor K. K. Kochukunju
6. ,, Thamarapallil Kochuthommen
7. Mr. N. R. Krishnan
8. ,, P. Kunjukrishnan
9. ,, Murukumpuzha V. Kunjukrishnan
10. Sahib Bahadur P. S. Muhamed
11. Mr. S. Narayana Pillai
12. ,, P. Narayana Pillai
13. ,, M. R. Narayana Pillai

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14. Mr. K. R. Narayanan
15. ,, Kainikkara M. Padmanabha Pillai
16. ,, J. E. A. Pereira
17. Mr. Codiveetil C. Ramankunju
18. ,, M. Ramiah Pillai
19. ,, E. Subramonia Aiyar
20. ,, G. Velu Pillai

The motion was declared lost.

MR. S. KRISHNA AIYAR : Sir, as I was absent on the last occasion, I am not furnished with a copy of the Bill. I believe that the amendment that I am called upon to move is amendment No. 41. I move that

In Clause 4, sub clause (j), delete the words "except for purposes of sections 19, 20, 21 and 23."

It will be seen from the Select Committee's report that this clause is entirely new and had no place in the original Bill. Section 3 would show that the Bill was intended only in respect of transactions that took place before the 23rd Dhanu 1112 :—"Subject to the provisions of sections 4 to 7, this act shall apply to all debts incurred before the 23rd Dhanu 1112, and subsisting at the commencement of this Act." The inference from this section is that this is intended to apply only to debts incurred before the 23rd Dhanu 1112. But by this additional clause, for certain purposes transactions that came into existance after the 23rd Dhanu are also included. It was not originally intended. The implication of this inclusion is very great. I shall refer in particular to Section 23, which section itself came into existance on a later stage of the sitting of the Committee. Section 23 refers to remedies for the realisation of the debts and in particular to arrests of the person of the judgment debtor. Whatever may be the limitation placed over the powers of the right to arrest under section 23, it may be seen that because as soon as a notice is issued he shall abscond, no notice for arrest shall be issued.

MR. T. P. VELAYUDHAN PILLAI: One question. May I know whether he is aware that this provision contained in section 23 is the present law in force in British India, as it was amended in 1937.

MR. S. KRISHNA AIYAR : In this respect there has been legislations in different parts of the world. Opinions differ and have been continuing to differ. There are certain countries where honour and veracity are at very high pitch. There are certain countries where this is not so. So far as Travancore is concerned, this is a mere attempt at enabling the debtor not pay the debts. The argument here is that owing to the availability of processes for the realisation of the judgment debts, this proceeding against the person of a judgment debtor is an obstructive method. Why not proceed against the property of the judgment debtor? Why should he be proceeded against his person? But, what we want is to place a wholesome fear in the mind of the judgment debtor. Even when there is provision for proceeding against the person of a judgment debtor, it will be seen from the records that the applications for arrests are very low. So, the provision is intended to instil a wholesome fear in the mind of the debtor that a warrant will be issued. In law, a person has a vested right of procedure. Many persons always transact money under the belief that they may be able

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[Mr. S. Krishna Aiyar]

to realise it at least by proceeding against the debtor's person. This provision which enforces a wholesome fear in the mind of the debtor cannot be taken away either in respect of debts past, present or future.

Coupled with this, let us consider the scope of the Bill that is before us. It may be seen from the trend of the several sections that the Bill has been drafted entirely in the interests of the debtor classes. An outsider or a non-Travancorean would say "Is Travancore a mere community of debtors to go in for a legislation of this kind? Is Travancore so bankrupt that such a piece of legislation has become necessary?" Nowhere has there been a similar Bill. In Ausralia, in one or two States where labour was predominant, they brought legislation on a similar problem. But it was found later on to be difficult and they had to ask for the help of the Federal Legisalture.

Let us see where this will lead us to. In the first instance, the debtor who is unable to pay his debt is given protection, first under Section 16, under which he can file a simple insolvency petition and then he gets 25 per cent. of his property and the rest of his assets is distributed among his creditors. Then a cut is made in respect of interests which have accumulated under the law of the land. Going further, the debtor has been given three, or six or nine years within which to pay his debts. He is allowed to pay off his debts in instalments. Lastly, it does not matter whether the debtor is monied or able to pay his debt. The right of concession is forced down his throat whether he deserves or not. Under Sections 7 or 8, the right is forced down into his throat by which the debtor is enabled to pay a certain percentage under certain circumstances. The Bill before it reached the Select Committee was of a different category. This bill is a limited bill. It is for that reason, I believe, that the National Congress party with the astuteness of Mr. Kainikkara Padmanabha Pillai seems to think that they will have nothing to do with it. This Bill, if it is passed into law, will destory the credit of the country. Capital is sure to go into hiding. No man would think of advancing either money or goods to another. Even as it is, our credit is practically gone. Promissory notes have gone out of existence. The value of produce has gone down and that means the value of property has also gone down. It is under these circumstances that Section 23 is also sought to be enacted. In future, no man will advance a pie to a Travancorean and no non-Travancorean will think of investing any money in Travancore. Recently, a representative of a big commercial firm came to me for advice regarding the effects of passing this Act. He wanted information as regards the position of outsiders in their interests in Travancore. I told him that in the Bill as it is now being discussed in the Assembly there was no hope. Therefore, one thing is certain, that if the Bill is passed as it is, it will destroy the credit of the country. If credit disappears there will be less and less of employment and Travancore will in the long run become an asylum of the unemployed. Possibly, some of us are short-sighted. We do not think of the good of the State. We should

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not think of these problems with the debtor-sense. Considering all these, I believe that this is one of the most suicidal and dangerous Bills in this country. We shall not therefore take the responsibilty. We shall leave the responsibility to Government itself. Let Government help the State to commit financial suicide.

MR. KOTTALIL P. ABRAHAM: (*Muvattupuzha* cum *Devicolam*): Does the Bill apply to future debts ?

MR. S. KRISHNA AIYAR: I am very very sorry that my learned friend has not read Clause 3 carefully. If he had read it carefully he would have known that it applies to future debts as well. That is why I said that money will vanish, that trade will vanish and that unemployment will grow in the land I would ask all honourable members to think, consider and ruminate over the situation and at least delete the sub-clause (*j*).

MR. R. SAMBASIVA AIYAR: Sir, I Second the amendment. In doing so I should like to point out some other methods easily available to a dishonest debtor if he does not want to pay any money to the creditor. This particular section enables him to get one-fourth of his assets or Rs. 3,000, whichever is less. There is nothing to prevent him from incurring any amount of debt and demanding the right to be given a fourth of his assets or Rs. 3,000. How can there be, I ask, any kind of guarantee to the creditor that the debtor would not take undue advantage of this provision? We were all along saying that this Act would not apply to debts incurred before 1112. The effect of this clause will be like taking away with one hand what is given with the other. I heartily second the amendment.

MR. JOSEPH VITHAYATHIL (*Kunnatnad* cum *Parur*): I oppose the amendment. The reason why this sub-clause was embodied is this. Section 19 applies to settlement of the debts of an individual. If the debts contracted by that individual after 23rd Dhanu 1112 are also not included at the time of the settlement; I do not know how it is possible to effect a settlement and distribute the assets among the creditors. The debtor is given one-fourth of the properties or Rs. 3,000 as the maximum after distributing three-fourths of the properties among the creditors. Unless all the debts and liabilities at the time are taken into consideration, I cannot understand how it is possible to effect a settlement. There is absolutely no force in the argument that the provision is unreasonable. Section 20 is only auxiliary to Section 19. Section 21 also is an auxiliary section. Section 23 relates to the amendment of the Civil Procedure Code. The provision contained in that section is the law that obtains in all the British Indian Provinces and in almost all the Indian States. We have not amended our Civil Procedure Code in accordance with the latest amendment of the British Indian Code. After all, what does the section say? It says that before issuing an arrest warrent notice should be issued to the party. Even now, if the debtor is an agriculturist, such a notice has to be issued to him. What are the conditions laid down in the section for exemption from arrest? Sub-clause (b) says:

> "that the judgment debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused to pay the same."

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[Mr. Joseph Vithayathil]

If the court is satisfied that a man having the means to pay has not paid—it may refer even to a past negligence—it may order his arrest Practically no debtor having property can take any advantage under this provision. Persons who have means of paying their debts can be arrested. Therefore I do not think that this provision is such a dangerous provision as suggested by the honourable member. After all, it is the law obtaining in all parts of India. Also there is no meaning in effecting an amendment of the Civil Procedure Code so as to make it applicable to debts contracted up to a certain date. So, when we consider the implications of the amendment suggested by the Select Committee I should think that it is only a necessary and reasonable amendment.

MR. E. SUBRAMONIA AIYAR: Sir, as I understand the amendment, and the present section, it comes to this. We are to consider the question whether Sections 19, 20, 21 and 23 should be made applicable to debts incurred subsequent to 23rd Dhanu 1112, whether or no such debts are renewals of prior debts. In other words, if a fresh debt is incurred after 23rd Dhanu 1112, we are to consider the question whether it is advisable in the interest of the country that the benefit of the provisions enacted in this special Act should apply to them or not.

So far as Section 23 is concerned, as was pointed out by my honourable member friend Mr. Krishna Aiyar, we are making a regular inroad upon the Civil Procedure Code which came into existence in the year 1100. Though in 1908 there was the British Indian Civil Procedure Code, we followed that Code in 1100. In 1100 we thought that the remedy of the decree holder to levy execution by the arrest and imprisonment of the judgment-debtor must remain on the statute book. That is, judged by the past experience we had, it was thought desirable that this remedy must exist. What had taken place subsequent to that period is the question for us to consider. I am not at all in favour of any remedy by coercion on principle. If money is advanced to a person on credit, according to the old law a person must work out his debt either by going into slavery or otherwise. That is a different question. Some people may characterise it as barbarous. After all it is only a coercion. Imprisonment will not give you money. But the threat of imprisonment may produce an effect. A debtor even though he is a property-less man, may find the money to discharge his debt in order to save himself from the disgrace of being arrested and sent to prison.

So far as dishonest debtors are concerned, this amendment does not stand in the way of their being committed to prison. I am fully alive to that. The amendment does not at all favour or protect dishonest debtors. Because if we read the amendment carefully we will find that if the court is satisfied it can order arrest. If there is the slightest suspicion of dishonesty, the debtor is not entitled to any protection at the hands of the legislature or of the court. The real question for us to consider is whether there is the possibility of recovering some money from the judgment debtor if this coercive process exist,

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I will give you an illustration. Suppose a person educates his son at considerable expense and incurs a liability. Practically no property is left for him. But his son passes the I. C. S. Examination and earns about Rs. 2,000 a month. If a decree is obtained against his father who has absolutely no property, the son may not like father being sent to prison and there is every possibility of realising the money. There may also be instances of sons like the late lamented C. R. Das who discharged completely his father's liabilities from out of his earnings. Such instances are indeed very rare. But respect for the father, prestige of the family may go to a certain extent in inducing people to find out the money for payment of the debt due by the father. There is again the case of a person who is earning a large pension but who has nothing else. As a result of good service to government he has got a large pension. But the pension is not attachable. There is absolutely no property in his name. The pension may be Rs. 5,00. The movable and immovable properties also may stand in the name of his wife. If you take steps against him not a pie will be realised. The question to consider is whether conditions are so changed as to give a *carte blanche* to debtors with means to pay the debt. My own view is that it is too early to think of such a provision now. This is a matter which may be taken into account at the time the Civil Procedure Code is sought to be amended. At the same time the House should not take it that I am in favour of the arrest or imprisonment of any person for a debt. I may also say that if such a provision remains in our statute book, probably other persons may say that we have advanced to the extent to which other countries have advanced. In England the advance was made very early. The change was made long long ago. In British India the change came about only very lately. In Travancore the question is whether we should make the change as is contemplated in the amendment. Whether advantageous or disadvantageous, the real question is whether this provision is useful. Coming to this particular Bill, I submit that this provision will apply only to debts. Suppose there is property and a decree in question arises whether such a decree is executable against a judgment debtor, and he could be imprisoned. I do not propose to make any opinion on the matter. I may say that it is not a debt as contemplated by this Act. It may be argued the other way also. It can be construed as a liability arising in the decree. Whatever it is when the matter comes to a court of law, the decision could be drawn. In other words it will be time then to consider the question. In a case like this it is better that Section 44 of the Civil Procedure Code is amended rather than that a provision of this nature is made.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know whether there is not even now a similar provision in the statute book, namely in part IV of Act III of 1112?

MR. E. SUBRAMONIA AIYAR: I know that in the Agricultural Relief Act there is such a provision whereby all the properties of a debtor are left at the disposal of the court for distribution to the various creditors leaving one fourth of the property to the debtor free of all encumbrances for his subsistance.

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MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know whether that is not a permanent provision applicable to all classes of debtors, which was brought by means of an amendment to the Civil Procedure Code?

MR. E. SUBRAMONIA AIYAR: I do not quite follow the question.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know whether the existing provision contained in Part IV of Act III of 1112 is not a permanent provision applicable to all the debtors in the State in general?

MR. E. SUBRAMONIA AIYAR: It is only temporary at any rate so long as the Act is in force.

MR. PUTHUPALLI S. KRISHNA PILLAI: There appears to be some misapprehension about the full purport of this provision. When the bill was originally introduced it was merely stated that this Act does not apply to debts incurred after the 23rd Dhanu 1112. During the Select Committee deliberations, several new clauses were introduced in the Bill. The effect of the amendment of the learned member Mr. Krishna Aiyar would be to exclude the applicability of these sections to debts incurred after the 23rd Dhanu 1112. Let us see what its effect would be upon the provisions of this Bill. It provides that except for caluse 19 it does not apply to debts incurred after Dhanu 1112. Clauses 16, 17, 18, 19, 20 and 21 deal with what may be called rural insolvency jurisdiction. It is stated that in order that a debtor may present an application under Section 16 for distribution of his assets among the various creditors and allotting one-fourth of his estate for his subsistence, he ought to satisfy the court that he is unable to pay his debt. It does not contemplate a debt incurred after the 23rd Dhanu 1112. Therefore it was understood by the Select Committee that section 16 does not deal with a debt incurred after the 23rd Dhanu 1112. In such a case where a right is conferred upon a person to present a petition that he is unable to discharge a debt incurred before the 23rd Dhanu 1112, it is proposed to provide that he shall be given one-fourth of the estate free of encumbrances and that the remaining properties shall be distributed to the creditors pro rata. In such a case, should we not make such a provision? Should we not empower the court to deal with not only debts that were incurred before the 23rd Dhanu 1112 but also those incurred subsequent to that date? By clause 19, the creditors who have advanced money after the 23rd Dhanu 1112 will also get a portion of the debtor's estate. It is only exercising an insolvency jurisdiction. Is it my friend's suggestion that those crditors should be asked to go without a share in the property of the debtor? What would be the result if Sections 19, 20 and 21 do not take into account debt incurred after Dhanu 1112. Suppose we say that section 19 does not apply to debts incurred after the 23rd Dhanu 1112. It will then mean that assets shall be distributed among the creditors who have advanced money before the 23rd Dhanu 1112. What is to happen to the other creditors from whom the debtor may have borrowed the bulk of his debts? Are they to go without anything? Is it the member's idea that persons who have advanced money before the year 1112 should get all the property of the debtor? And that other creditors should go without anything?

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We are now dealing with debts incurred before the 23rd Dhanu 1112. Any right that is proposed to be given should be confined to such debts. When we come to insolvency jurisdiction we have to see that creditors are not the sufferers. Therefore section 19 empowers courts to deal with debts incurred not only before the 23rd Dhanu 1112 but subsequent to that as well. It has to be borne in mind that it will include debts after the commencement of the Act also. That is why that exception was made there.

Let us see what Section 20 says. It says:—

> "All alienations made by the debtor during the pendency of application under Section 16 shall be void as against every creditor to whom a debt is owing on the date of the presentation of the petition."

Does not my friend want that provision? It is surprising that my friend thinks that this provision is not intended for the benefit of the creditors. The creditors are not able to understand the real benefits contained in this Act. (Nationalist Party: *Hear, hear*). I am in between two opposing parties none of which cares to understand the real implications contained in the various provisions of the bill. The debtors call it a bill for the relief of the creditors, and the creditors say that it is for the relief of the debtors. We have to do justice to both parties. And we have done it as far as is possible.

Let us come to Section 21. That is also a necessary section.

We will go to section 23. This is the section on which Mr. Krishna Aiyar has been very vehement. Mr. Subramonia Aiyar has also taken an attitude which is more or less in support of the statements made by Mr. Krishna Aiyar. It was thought that the question of amending the Civil Procedure Code might be taken up at a later stage. When the Agricultural Debt Relief Act was passed, this House made a provision by adding a new section 48 (A) to the existing Civil Procedure Code, thereby effecting a permanent alteration to the Civil Procedure Code. That Section confers a privilege on agricultural debtors. We have proposed to repeal that provision. It must be borne in mind that this section with its various restrictions would apply only to agricultural debts. It is not, as was supposed by my friend, applicable to all debtors. It is hemmed in with various restrictions. In 1100, the Civil Procedure Code was amended on the lines of British Indian Civil Procedure Code of 1908. No alteration was made. In 1937, the British Indian Act was amended and a provision similar to the one now proposed is in operation in British India since then. The vast change that is contained in it is really a human provision. It provides that a creditor is entitled to send his debtor to jail only under certain circumstances. It must be understood that this right of the creditor to send his debtor to jail has undergone a revolution in the whole world. There are countries where debtors cannot be sent to a civil jail. There are places where debtors are sent to jail with certain restrictions. In British India the Civil Courts Guide was amended in respect of this matter

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[Mr. Puthupalli S. Krishna Pillai]

in 1937. We had also a similar provision at least in respect of agricultural debtors in the Act III of 1112. That is now proposed to be repealed. If by the Agricultural Debt Relief Act Section 48 (A) could be made to form part of the Civil Procedure Code as a permanent measure, we have to consider the question whether we are not called upon to make at least that provision in the new Bill because we are repealing the Act itself. That is the position. My learned friend Mr. Krishna Aiyar feared that the entire credit will flow outside the State. Whereto? It cannot find an asylum in British India where this provision has already a two years' growth. Even if it goes to British India, it will come back, for, I am sure, it will find a better haven in Travancore.

Let us now consider what exactly is the provision contained in Clause 23. "Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless after giving the judgment debtor an opportunity..... satisfied" (Clause 23). There can be no hardship, for that is the rule prevalent here. What is the sort of satisfaction that the Court must have? "That the judgment debtor is likely to abscond or leave the local limits of the jurisdiction of the Court". There is a practice here for the Karunagapally man to go to Mavelikara when execution is taken out. This is the common practice. The Court can order that such a person shall be sent to the prison. Then the clause says "has after the institution of the suit in which the decree was passed, dishonestly transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation to his property;". We see that there are such affluent debtors who try to prosper at the expense of the creditors. The law certainly makes provision for such persons. Then "that the judgment debtor has or has had since the date of the decree, the means to pay the amount of the decree, or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same". Where is the harm in insisting upon such conditions being satisfied before he is sent to prison? If there is a debtor who has no property whatsoever except his I. C. S. sons.....

MR. E. SUBRAMONIA AIYAR: In view of the explanation of the Legal Remembrancer, I withdraw my illustration with regard to the I. C. S. son.

MR. PUTHUPALLI S. KRISHNA PILLAI: Therefore, as I said we need not be afraid of this provision. There is a similar provision in British India. I am sure that my learned friend will withdraw his motion.

MR. S. KRISHNA AIYAR: I was very much impressed by the Legal Remembrancer's statement.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, I rise to a point of order. I wish to know whether as a matter of fact and as a matter of course, the mover of a motion has got any right to reply unless he has obtained permission from the Chair to do so. I rely on standing Order 24, last Proviso.

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MR. S. KRISHNA AIYAR : In that case, may I make a statement? Up till now, the mover of a motion has been allowed to speak a second time and Mr. T. P. Velayudhan Pillai has not raised any protest.

DEPUTY PRESIDENT : I give you permission. Mr. Krishna Aiyar may proceed.

MR. S. KRISHNA AIYAR : I was very greatly impressed by the lucid and moving statement of the Legal Remembrancer especially when I heard him say that this provision was intended for the benefit of the creditors as well. To me it was astounding and I thought and still think that the Bill has been drawn purely in the interest of the debtors. However, we find one thing that some small mercy is retained, at least sentimentally, in the mind of the Legal Remembrancer and he can put that only in this way by putting the creditor out of the misery. I ask, why keep him hanging for 3, 6 and 9 years at the end of a rope? Why not say " you shall not realise anything"? Why keep a debt for 3, 6 and 9 years, cut down the interest, cut down a part of the principal and put all obstacles in the way? These are worse miseries to him than to tell him that there shall be no realisation of his debts. For this mercy I shall be very thankful to the Legal Remembrancer.

He next said that capital will not go out of the State and even if it goes it will be to British India and once it goes there it will be driven back to Travancore. I have never said that capital is bound to go to British India. It need not be outside Travancore, not to British India. But capital will not be available for circulation. The trade, industry and agriculture of our country are depending upon the circulation of capital. Capital and credit, as Mr. Pereira said, are the life blood of agriculture and other industries. Once it goes out of circulation it will not be of any use to the State. Not that capital will go to British India. Let us therefore see what the effect will be? The effect of the present legislation will be to scare away capital. There will not be anybody to lend money for the purpose of industry or other developments. A part may go to the savings banks and Government may be benefited to that extent. Some of them may be buried. People will take care of their money. Industry and agriculture of Travancore will suffer a lot. It is very dangerous for the future economic situation of the State.

Coming to sub section (j) " except for purposes of Sections 19, 20, 21 and 23"—I know very well that sections 19, 20 and 21 are necessary corroborations to Sections 16. I confine my remarks to section 23. I could very well have given notice of an amendment including sections 19, 20 and 21. I do admit that this section does not stand by itself. I therefore once again request that the modified amendment as regards sections 19, 20 and 21 may be accepted by the House.

DEPUTY PRESIDENT : Has the Legal Remembrancer anything more to say?

MR. PUTHUPALLI S. KRISHNA PILLAI : Mr. Krishna Aiyar has explained that if the other clause is to be accepted the words " except for purposes of sections 19, 20 and 21 " should find a place. The objection relates only to section 23. That section applies not only to debts incurred before the 23rd Dhanu 1112 but also incurred thereafter,

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[Mr. Puthupalli S. Krishna Pillai]

The modified amendment of Mr. S. Krishna Aiyar that "In clause 4, sub-clause (j), delete the words "except for purposes of sections 19, 20 and 21" was put to vote and declared lost.

MR. S. KRISHNA AIYAR: I beg to move the following motion:—

"In Clause 4, sub-clause (j) delete the words "and 23".

The motion was put and declared lost.

MR. R. SAMBASIVA AIYAR: I demand a poll Sir.

A poll was taken and the House divided as follows:—

AYES—3.

1. Mr. S. Krishna Aiyar
2. Mr. E. Subramonia Aiyar
3. Mr. R. Sambasiva Aiyar

NOES—50.

1. Mr. Kottalil P. Abraham
2. Mr. P. C. Adichan
3. Sahib Bahadur V. Chandamiah
4. Srimati K. Devaki Antharjanam
5. Mr. K. Dominic Joseph
6. ,, D. Francis.
7. ,, K. G. Govindan
8. ,, S. Govinda Pillai
9. ,, M. L. Janardanan Pillai
10. ,, Kannanthodath Janardanan Nair
11. ,, N. V. Joseph
12. ,, Padiyara Joseph Kunju
13. ,, Joseph Vithayathil
14. ,, K. C. Karunakaran
15. ,, Menatheri N. Kesava Panickar
16. ,, T. C. Kesava Pillai
17. ,, T. T. Kesavan Sastri
18. ,, K. P. Kochukora Tharakan
19. ,, Kaviyoor K. K. Kochukunju
20. ,, Thamarappallil Kochuthommen
21. ,, N. R. Krishnan
22. ,, A. K. Kumaran Vaidyan
23. ,, Thariathu Kunjithomman
24. ,, K. G. Kunjukrishna Pillai
25. ,, K. Kunju Panickar
26. ,, Varkala K. Madhavan
27. Sahib Bahadur M. K. Mackar Pillai
28. Mr. P. V. Mathai Chemparathy
29. Sahib Bahadur H. O. L. Marikar
30. Sahib Bahadur P. S. Muhamed
31. Sahib Bahadur N. M. Muhamed Abdul Kadir
32. Mr. N. Narayana Kurup
33. ,, S. Narayana Pillai
34. ,, M. R. Narayana Pillai
35. ,, Kainikkara M. Padmanabha Pillai
36. ,, Codiveettil C. Ramankunju
37. ,, M. Ramiah Pillai
38. ,, Puliyoor T. P. Velayudhan Pillai
39. ,, G. Velu Pillai
40. ,, P. Vivekanandam
41. ,, M. K. Nilakanta Aiyar
42. ,, S. Sundararajan
43. ,, K. Sankaran
44. ,, M. Ramachandra Rao
45. ,, Puthupally S. Krishna Pillai
46. Dr. H. Parameswaran
47. Mr. A. Gopala Menon
48. ,, C. Kumara Das
49. ,, K. R. Narayana Aiyar
50. ,, V. R. Sankaranarayana Pillai

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NEUTRALS—4.

1. Mr. C. Jebamony Nadar	3. Mr. J. E. A. Pereira
2. ,, P. Kunjukrishnan	4. ,, M. Sivathanu Pillai

The motion was declared lost.

MR. C. JEBAMONY NADAR : I beg to move the following amendment :

"In Clause 4, add as sub-clause (k) "any debt or liability due to or by a co-operative society or bank."

Sir, I have already explained my reasons in my dissenting note appended to the report of the Select Committee. Honourable members have spoken already for the exclusion of the co-operative societies from the operation of this Act. The provision as it stands in the Bill will be harmful to the co-operative societies and cripple the movement in general. We find that in Cochin and Madras Acts, Co-operative Societies are excluded. With these words I commend the motion for the acceptance of the House.

MR. R. SAMBASIVA AIYAR : Sir, I support the motion. I submitted this morning my plea for the exclusion of the co-operative banks. What exactly Sir, is the principle on which public banks have been excluded from the operation of this Bill? Is there any difference between a co-operative bank and a public bank so far as this legislation is concerned? Is it not our duty to encourage more and more co-operation in our State? Are we not as responsible citizens in the country to encourage co-operative institutions so that the poor agriculturists may get credit at lower rates of interest? Here in Trivandrum itself we know that no less a person than Udarasiromani T. Padmanabha Rao Avl., has contributed a fortune for the progress and welfare of the movement so that he might be of service to the people. Other public-spirited men like him have also invested big amounts in such public institutions and the policy of the Government should never be directed in a way which would ruin those institutions. By this Bill Government are actually turning round suddenly and saying to those people that you shall have only 70 per cent of what you have given even with the best of motives. I appeal Sir, that this is an amendment which is highly necessary particularly for the good of the poor agriculturists to whom those co-operative institutions have done much good. With these words I support the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI : Sir, this is a matter on which this House appears to have very strong views. I have merely adopted the public opinion expressed at various times. Government have thought fit to include co-operative debts simply because they are convinced that there is a large volume of public opinion that such debts should also be brought within this measure. One fundamental difference between a Joint Stock Bank and a Co-operative Bank is this. The Joint Stock Bank deals with the public who have little to do with the Bank as such. The Co-operative Bank deals not with the public as such but only with its members. In the case of Co-operative Banks

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[Mr. Puthupalli S. Krishna Pillai]

the members themselves can decide whether they should avail themselves of the privileges under the Act. If they find that is not to their mutual benefit or advantage, they can decide not to make any deduction or claim to pay it in instalments. If, however, it so happens that it is not possible, it only shows such persons do want the relief now proposed. I believe that it is one of the practices resorted to by the co-operators to renew the old debts. Even an impartial enquiry into the transactions of the bank will reveal that most of the debts are old transactions kept alive in different names. If on the other hand, there is a co-operative society or a financing bank which lends out money,

.....

MR. E. SUBRAMONIA AIYAR : Is it open to the co-operators to claim renewal when the matter is taken before the Registrar ?

MR. PUTHUPALLI S. KRISHNA PILLAI: For the purpose of the presentation of the annual report and the annual profit and loss account the Secretary of the Co-operative Society makes up a report saying that the old debt has been paid off and that a new debt has come into being. If you enquire into the history of these transactions you will find that all of them have been simply renewed or transferred to the names of new persons. If on the other hand, there is a financing bank which is advancing money or which has entered into transactions after 1112, if there is a Co-operative society which has not allowed any old advance to fall into arrears, then, this Bill will not affect it.

MR. E. SUBRAMONIA AIYAR : Subsequent to 1112 there are only very few transactions.

MR. PUTHUPALLI S. KRISHNA PILLAI: That is why there is an attempt on the part of co-operative societies to bring a radical change in the system of the working of co-operative societies. Government, even at the risk of doing some apparent injustice would not hesitate to support public opinion that a number of these defunct societies should be destroyed so that new societies formed on healthy lines may come into existence. Not that the Government are against all co-operative societies. They are their own creation. But co-operation has been going from bad to worse. There is a lot of difference between the co-operative movement in Madras and that in Travancore. Mr. Devadas has stated that a good portion of this debt may be written off. Money must be advanced and money must come back. Then alone can co-operation flourish.

MR. M. SIVATHANU PILLAI : Does not the member think that if a bank is found to be not charging more than 9 per cent they should be entitled to a relief under this Act ?

MR. PUTHUPALLY S. KRISHNA PILLAI: When an amendment comes to that effect I shall consider that. But this is the position that Government are constrained to take now.

MR. R. SAMBASIVA AIYAR : May I know whether the Government will again take up this question ?

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MR. PUTHUPALLY S. KRISHNA PILLAI: No, Sir.

My argument therefore is that without realising what exactly is the condition of the co-operative societies, in this State, there is no use in saying that they are exempted in Madras and Cochin. We are to deal with our co-operative societies. Do they repuire or demand a radical treatment, a reorientation, as it were? That is the question. No doubt some societies there are which may suffer. It is an undisputed fact : but ultimately if proper steps are not taken at this time it may be that the co-operative movement may die out. It is hoped that by this method we will get new co-operative societies or the old ones reformed. I do not think that this is an amendment which could be accepted. But, if honourable members of this House vote for its acceptance Government are prepared to adopt that decision.

MR. R. SAMBASIVA AIYAR: Sir, one word by way of explanation. I want permission from the Chair to withdraw.....

DEPUTY-PRESIDENT: No, it is Mr. Nadar's motion that is now being discussed.

MR. C. JEBAMONY NADAR: According to the Legal Remembrancer public opinion is against the present co-operative societies I do not think so. I therefore press the motion. I believe that public opinion is in favour of excluding the co-operative societies. So, I press the motion.

The question that " In Clause 4, add as sub clause (a) 'any debt or liability due to or by a co-operative society or bank " was put to vote and declared lost.

MR. R. SAMBASIVA AIYAR: Sir, I demand a poll.

A poll was taken and the House divided as follows :—

AYES—4.

1.	Mr. C. Jebamony Nadar	3.	Mr. M. Sivathanu Pillai
2.	Sahib Bahadur M. K. Mackar Pillai	4.	,, R. Sambasiva Aiyar

NOES—40.

1.	Mr. Kottalil P. Abraham	12.	Mr. Padiyara Joseph Kunju
2.	,, P. C. Adichan	13.	,, Joseph Vithayathil
3.	,, S Chattanatha Karayalar	14.	,, K. C. Karunakaran.
4.	,, M. L D'Cruz	15.	,, M. G. Kesava Pillai
5.	Srimathi K. Devaki Antharjanam	16.	,, T. C. Kesava Pillai
		17.	,, T. T. Kesavan Sastri
6.	Mr K Dominic Joseph	18.	,, K. P. Kochukora Tharakan
7.	,, E. E. Pandarathil		
8.	,, K. G. Govindan	19.	,, Kaviyoor K. K. Kochukunju
9.	,, S. Govinda Pillai		
10.	,, Kannanthodath Janardanan Nair	20.	,, Thamarappallil Kochuthommen
11.	,, N. V. Joseph	21.	,, N. R. Krishnan

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22. Mr. A. K. Kumaran Vaidyan
23. ,, K.G. Kunjukrishna Pillai
24. ,, Murukkumpuzha V. Kunjukrishnan
25. ,, K. Kunju Panickar
26. ,, P. V. Mathai Chemparathy
27. Sahib Bahadur H. O. L. Marikar
28. Sahib Bahadur P. S. Muhamed
29. Mr. N. Narayana Kurup
30. ,, K. Naarayanaperumal Nadar
31. Mr. S. Narayana Pillai
32. ,, P. Narayana Pillai
33. ,, M. R. Narayana Pillai
34. ,, K. R. Narayanan
35. Srimati T. Narayani Amma
36. Mr. Kainikkara M. Padmanabha Pillai
37. ,, E. Subramonia Aiyar
38. ,, Puliyoor T. P. Velayudhan Pillai
39. ,, N. Velu Achari
40. ,, G. Velu Pillai

NEUTRALS—14.

1. Mr. M. K. Neelakanta Aiyar
2. ,, M. Ramachandra Rao
3. ,, K. Sankaran
4. Dr. H. Parameswaran
5. Mr. C. Kumara Das
6. ,, K. R. Narayana Aiyar
7. ,, V. R. Sankaranarayana Pillai
8. ,, A. Gopala Menon
9. Mr. S. Sundararajan
10. ,, Puthupally S. Krishna Pillai
11. Sahib Bahadur V. Chandamiah
12. Mr. D. Francis
13. ,, S. Krishna Aiyar
14. ,, J. E. A. Pereira

The motion was declared lost.

MR. M. SIVATHANU PILLAI: Sir, a point of order. The Legal Remembrancer was vehemently opposing the motion. Now he remains neutral.

MR. PUTHUPALLY S. KRISHNA PILLAI: I said that if honourable members of the House wanted to exclude the co-operative societies, Government were prepared to consider the matter. Therefore, I thought it better to remain neutral.

MR. R. SAMBASIVA AIYAR: Sir, there is a motion more or less identical to the same subject just now dealt with standing in my name I submit that I may be allowed to move that amendment.

"In Clause 4, add as another sub-clause any debt due from a Co-operative Bank."

To avoid a misunderstanding, I may put it that, all along, the discussion was carried on on the assumption that the point of interest was the Co-operative Bank. Our attention was directed to the Bank. But, now it is directed not to the bank but to the man investing in the bank. So I request that I may be allowed to move the resolution.

MR. PUTHUPALLY S. KRISHNA PILLAI: Sir, I wish to state that it is out of order. We have dealt with debts due to and from co-operative banks. That is a comprehensive motion. When the House has decided that debts due to or from the societies will not be excluded, has not

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the House decided on the question of exclusion of debts due from co-operative societies? At this stage, the honourable member cannot say that this "to or from" is a joint matter and that therefore, we will now deal with the "from" alone. The House has expressed its opinion on both "to" and "from". Therefore I say that this amendment is out of order.

MR. R. SAMBASIVA AIYAR: I will explain the point. The [illegible]-like fury of the Legal Remembrancer was all for the purpose of destroying the co-operative banks. The point is that the attention was directed to the necessity or otherwise of excluding co-operative banks. That was the central purpose of the motion which we have discussed and about which this House has arrived at a decision. My contention is that the co-operative bank is only a subsidiary point. Let the co-operative banks find their own level; but then, the man who has invested may not even be a member of the society. He will be completely destroyed if the debt due from the bank is not exempted. He may be a man who has invested his money in the Co-operative Bank just as he has invested his money in any other Bank. Therefore the point of interest here is not the Co-operative Bank but the person who has invested. Viewed from that point, this House will have to consider wholly different matters in arriving at a decision. The matters on which this House directed its attention when it came to a decision on a previous motion are completely different from the matters to which the House will have to devote its attention when this amendment is discussed. Now the Co-operative Bank is of subsidiary importance. We will not be concerned with the growth or otherwise of co-operation, its defects or merits. On the other hand we will be concerned with the attitude of persons who invested money there. So, I submit, Sir, that this aspect of the matter may also be considerd when you give your ruling and that I may be allowed to move the motion.

DEPUTY PRESIDENT: Although the whole discussion about debts due to and from Co-operative Banks has covered the whole ground there seems to be some little difference in the idea underlying the amendment. I am rather inclined to allow the motion to be moved. I shall therefore allow Mr. Sambasiva Aiyar's amendment to be moved.

MR. R. SAMBASIVA AIYAR: I move Sir, that in clause 4 another sub-clause may be added

"Any debt due from a Co-operative Bank."

Co-operative Banks in Travancore have been doing business like other public Banks. They have been receiving money in deposits not only from their members but also from outsiders. These ontside persons have not been getting high rates of interest which they could ordinarily have obtained from other public Banks. They have been making advances to these Co-operative Banks impelled by very high and noble motives. Their case stands on a different footing. All the considerations that weighed with the House in arriving at the conclusion that public banks should be excluded from the scope of the Bill if the rate of interest charged was not more than 9 per cent. should weigh in considering the case of these persons who have invested their money in the Co-operative Banks.

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MR. M. SIVATHANU PILLAI: Why not the investors in Co-operative Banks also be destroyed?

MR. R. SAMBASIVA AIYAR: I am not prepared even to concede that those investors in Co-operative banks who are members of the banks may be destroyed. If you are so very particular that the members of the co-operative societies should be destroyed, well, let them be destroyed. But these persons who have invested money in the banks are complete outsiders and are not members of the banks. They have nothing to do with co-operation, and as such they are not responsible as the members of the banks and so they must not be destroyed as either the bank or its members. They have invested their money in the co-operative banks while they could have invested it more profitably in other banks.

MR. PUTHUPALLY S. KRISHNA PILLAI: May I know the ordinary rate of interest at which money is borrowed or deposited in Co-operative banks by outsiders?

MR. R. SAMBASIVA AIYAR: From my own experience of the Central Co-operative Bank I can say that originally they were giving 5 per cent. interest and now I get only 4 per cent. interest. At the time I invested my money in the Central Co-operative Bank I could easily have invested it at 6 per cent. in the Travancore National and Quilon Bank. Even now it is possible to obtain more than 4 per cent. from other institutions. The Trivandrum Permanent Fund gives interest at the rate of 4½ per cent. I invested in the Central Co-operative Bank simply because the persons connected with that institution are well-known and have been saying that the co-operative movement should be encouraged and the investors ought to be impelled by such high motives. The fact is, Sir, that here the investor in a Co-operative Bank is not an ordinary money-lender and he did not go to the Bank to make a profit. There is no element of speculation in it. He thought he was doing a great service to the country. Therefore, I most humbly submit that even if members of the Co-operative societies are not excluded, outsiders who have invested money in Co-operative Banks may be excluded. The Co-operative Banks may be destroyed if that is the view of the Legal Remembrancer. Do the Co operative Societies want any relief? They never wanted any. They say that they do not want any relief. But still the Legal Remembrancer says – No, you *shall* have it. Is this the way that Legislation should be enacted? Should there not be any sort of bonafides in legislation? It is the most irresponsible view that any Legal Remembrancer can have that such investors and Co-operative Banks should be destroyed, with all the fury of *Chandrahasa* which signifies really nothing. I should submit, Sir, that there is a real case, for grief, for agony, for heart-burning on the part of these investors who have put in their money in the Co-operative Banks.

After all what is the sort of interest that they get on their deposits? I shall address the House on that aspect of the matter. The investments take different forms. There is what is called the long-term deposit or the provident fund deposit. A sum of money is advanced

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from month to month and this goes for a long period of years, say 20. Now it is the poor investor who has been, by practising thrift and economy, by grudging himself even the necessaries of life, putting his money there as a Provident Fund deposit. In limited banks no such business is transacted. They have only the current account, the savings bank account and the fixed deposit accounts. They have nothing more. In Co-operative institutions the Providedent fund desposit has been introduced with a view to encourage thrift to enable people to save and not to squander away their money, not to flitter away their earnings. It is something like a pension for people who are not in Government service, like lawyers. Interest here is calculated at 4 or 4½ per cent and the amount goes on slowly accumulating and at the end of a period of years the money becomes available to the investor, for the marriage of his daughter or for some other purpose. There is another form of deposits called thrift deposits. A sum of money is advanced in a lump and is repayable after a period of years, something like the post office cash certificates. A larger amount is given which will accrue with interest calculated at a certain rate. Besides that, there is of course the fixed deposit account on which interest is given every six months. These are the various kinds of deposits available in Co-operative Banks and not available in other Banks. Sir, it is not the large moneyed man or the big creditor but it is the poor man who wants to save bit by bit and have it for a rainy day that has deposited in the Co-operative Banks. Such a man, Sir, is to be paid only 70 per cent and the Legal Remembrancer has absolutely no sympathy for that man. Is that the correct attitude to take? I submit it is not. I commend this proposition for the acceptance of the House and I earnestly request the Government to accept the amendment since otherwise there is bound to be great deal of hardship and suffering.

MR. PUTHUPALLY S. KRISHNA PILLAI: If debts due to Co-operative Societies are allowed to be scaled down, will it be possible for Co-operative Societies to pay in full debts due from them?

MR. R. SAMBASIVA AIYAR: I might say that that position can apply only to the members of the society. It cannot apply to the outsiders. Even members of the Royal Family have advanced money to Co-operative Societies not because they were impelled by the motive of getting profit but because they were impelled by the highest of motives.

MR. PUTHUPALLY S. KRISHNA PILLAI: Sir, my question remains unanswered: If debts due to Co-operative Societies are allowed to be scaled down will it be possible for Co-operative Societies to pay in full debts due from them?

MR. R. SAMBASIVA AIYAR: If they are able, why not they pay? They have got plenty of reserves. Simply because one or two institutions cannot give money it does not mean that all the institutions will go insolvent.

MR. PUTHUPALLY S. KRISHNA PILLAI: Am I to understand that Co-operative Societies will not be affected if debt relief measures are made applicable to debts due to them? Is that the member's position?

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MR. R. SAMBASIVA AIYAR: Sir, as I submitted I am not at the question as to what happens to the Co-operative Societies at all. We have already decided that question when the previous motion was under consideration. The centre of interest now for the purpose of this amendment is not the Co-operative Societies, but outsiders who have invested in Co-operative Societies. My argument is that persons who have invested in Co-operative Societies and who are not at all members of these societies but mere outsiders who came to deposit their moneys with very high and noble motives should at least be placed on a different footing from the others. These outsiders have been impelled by the noblest of motives and at great loss and sacrifice they have foregone a large portion of their profit which they would have obtained if they had invested in other institutions. Why should such people suffer? It was only as an example that I pointed out that even the members of the Royal Family who have absolutely nothing to do with the co-operative movement have invested their money in these institutions merely with a view to see that co-operation is encouraged.

MR. PUTHUPALLY S. KRISHNA PILLAI: I was only putting a question. But the member is now making a speech. Am I to understand that the honourable member is not moving this amendment in the interest of co-operative societies but only in the interest of such persons like himself who have deposited their money in co-operative institutions?

MR. R. SAMBASIVA AIYAR: Not exactly that way.

MR. PUTHUPALLY S. KRISHNA PILLAI; Am I to take it then that the honourable member is not moving this amendment in the interests of the co-operative societies but only in the interests of persons like him who have deposited money?

MR. R. SAMBASIVA AIYAR: My amendnent is now before the House for acceptance. I do not wish to re-read my amendment.

MR. PUTHUPALLY S. KRISHNA PILLAI: My only question is this. May I know whether the amendment proposed by him is for saving members like him who have invested money in co-operative banks?

MR. R. SAMBASIVA AIYAR: For the purpose of argument I might even concede that. My amendment is clear on the point.

MR. S. KRISHNA AIYAR: I second the amendment in the interest of certain present members of the co-operative societies who have made their heart-felt plea to that effect.

MR. PUTHUPALLI S. KRISHNA PILLAI: When the last question was put to vote this Assembly had occasion to ascertain the nature and intensity of public opinion which I referred to in my speech. This amendment is one which according to the mover concerns the interests of the country. He does not care what happens to a co-operative society. He seems to think that even persons who have borrowed money from co-operative societies need not pay at all. But he would get back his money without being reduced even by a pie. I feel that this matter is one which must be left for decision by the good sense of the House. Government are remaining neutral in this respect just as they did on the previous occasion. If there is public opinion in favour of this amendment I have no objection to adopt it.

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The amendment of Mr. Sambasiva Aiyar was put to vote and declared lost.

DEPUTY PRESIDENT : Before we disperse I wish to ascertain the sense of the House as to whether they will sit tomorrow from 2 o'clock onwards, after the business of the Joint Session is over. The National Party has stated their approval of this proposal.

MR. S. KRISHNA AIYAR : Some of us are against sitting after the Joint Session. It is beyond us. Further we cannot lose the time that is allotted for the study of the budget.

MR. KAINIKKARA M. PADMANABHA PILLAI: We have no objection to sit after 2 o'clock.

(The general sense of the House was ascertained.)

DEPUTY PRESIDENT : As the general sense of the House is in favour of sitting after 2 o'clock tomorrow for the purpose of discussing this Bill, the House will meet again tomorrow afternoon at 2 o'clock. The House will now adjourn.

The House adjourned at 5-5 P. M.

A. GUNAMONY,
Secretary to the Sri Mulam Assembly.

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